

SENATE BILL 88

I4
SB 255/19 – JPR

(PRE-FILED)

0lr0911
CF HB 21

By: ~~Senator Hayes~~ **Senators Hayes, Miller, and West**

Requested: October 15, 2019

Introduced and read first time: January 8, 2020

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: January 21, 2020

CHAPTER _____

1 AN ACT concerning

2 **Abandoned Property in Possession of a Museum**

3 FOR the purpose of authorizing certain museums located in the State to claim title to
4 certain property in possession of the museum after providing certain notices;
5 requiring a museum, before taking title to certain property, to provide certain notices
6 in a certain manner; requiring the lender or new owner of certain property to notify
7 a museum of certain information; authorizing a museum, under certain
8 circumstances, to provide notice by publication; requiring any notice provided by a
9 museum to contain certain information; requiring a lender to notify a museum of
10 ownership of certain property within a certain number of days after the museum
11 provides a certain notice; providing that after a certain number of years and under
12 certain circumstances certain property is presumed abandoned; authorizing, under
13 certain circumstances, a museum to apply certain conservation measures to property
14 on loan to the museum; providing that a museum, under certain circumstances,
15 acquires a lien on certain property in the amount of conservation measure costs
16 incurred by the museum; providing that a museum, with a certain belief and
17 exercising certain care, is not liable for injury or loss to certain property when taking
18 certain conservation measures; defining certain terms; and generally relating to
19 property in possession of a museum.

20 BY adding to

21 Article – Commercial Law

22 Section 16–801 and 16–802 to be under the new subtitle “Subtitle 8. Museum’s Lien”;

23 and 17–401 through 17–408 to be under the new subtitle “Subtitle 4.”

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



Abandoned Property in Possession of a Museum”
Annotated Code of Maryland
(2013 Replacement Volume and 2019 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Commercial Law

SUBTITLE 8. MUSEUM’S LIEN.

16–801.

IN THIS SUBTITLE, “CONSERVATION MEASURE”, “LENDER”, “LOAN”, AND
“MUSEUM” HAVE THE MEANINGS STATED IN § 17–401 OF THIS ARTICLE.

16–802.

(A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A MUSEUM
THAT APPLIES CONSERVATION MEASURES UNDER § 17–405 OF THIS ARTICLE TO
PROPERTY ON LOAN TO THE MUSEUM HAS A LIEN ON PROPERTY FOR THE COSTS OF
THE CONSERVATION MEASURES.

(B) A MUSEUM MAY NOT ACQUIRE A LIEN UNDER SUBSECTION (A) OF THIS
SECTION IF THERE IS AN AGREEMENT BETWEEN THE MUSEUM AND THE LENDER
THAT ADDRESSES THE COSTS OF CONSERVATION MEASURES.

SUBTITLE 4. ABANDONED PROPERTY IN POSSESSION OF A MUSEUM.

17–401.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
INDICATED.

(B) “ADDRESS OF THE LENDER” MEANS THE MOST RECENT ADDRESS OF A
LENDER AS SHOWN ON THE MUSEUM’S RECORDS PERTAINING TO PROPERTY ON
LOAN FROM THE LENDER.

(C) (1) “CONSERVATION MEASURE” MEANS ANY ACTION TAKEN TOWARD
THE LONG–TERM PRESERVATION OF PROPERTY.

(2) “CONSERVATION MEASURE” INCLUDES EXAMINATION,
DOCUMENTATION, TREATMENT, AND PREVENTIVE CARE OF PROPERTY, SUPPORTED
BY RESEARCH AND EDUCATION.

(D) "LENDER" MEANS A PERSON WHOSE NAME APPEARS ON THE RECORDS OF A MUSEUM AS THE PERSON LEGALLY ENTITLED TO, OR CLAIMING TO BE LEGALLY ENTITLED TO, PROPERTY HELD BY THE MUSEUM.

(E) "LOAN" MEANS A DEPOSIT OF PROPERTY NOT ACCOMPANIED BY A TRANSFER OF TITLE TO THAT PROPERTY.

(F) "MUSEUM" MEANS AN INSTITUTION LOCATED IN THE STATE THAT:

(1) IS OPERATED BY A PERSON PRIMARILY FOR EDUCATION, SCIENTIFIC, HISTORIC PRESERVATION, OR AESTHETIC PURPOSES; AND

(2) OWNS, BORROWS, CARES FOR, EXHIBITS, STUDIES, ARCHIVES, OR CATALOGS PROPERTY.

(G) "PERMANENT LOAN" MEANS A LOAN OF PROPERTY TO A MUSEUM FOR AN INDEFINITE PERIOD.

(H) "PROPERTY" MEANS A TANGIBLE OBJECT UNDER A MUSEUM'S CARE THAT HAS INTRINSIC HISTORIC, ARTISTIC, SCIENTIFIC, OR CULTURAL VALUE.

(I) "UNDOCUMENTED PROPERTY" MEANS PROPERTY IN THE POSSESSION OF A MUSEUM FOR WHICH THE MUSEUM CANNOT DETERMINE THE OWNER BY REFERENCE TO THE MUSEUM'S RECORDS.

(J) "UNSOLICITED DONATION" MEANS ANY PROPERTY THAT IS LEFT IN THE CONTROL OF A MUSEUM THAT IS FROM AN UNKNOWN SOURCE AND CAN BE REASONABLY ASSUMED TO HAVE BEEN INTENDED AS A GIFT TO THE MUSEUM.

17-402.

(A) (1) A MUSEUM MAY ACQUIRE TITLE TO PROPERTY THAT IS ON PERMANENT LOAN TO THE MUSEUM OR THAT WAS LOANED FOR A SPECIFIED TERM THAT HAS EXPIRED BY GIVING NOTICE THAT THE MUSEUM IS TERMINATING THE LOAN OF THE PROPERTY.

(2) IN ADDITION TO THE INFORMATION REQUIRED UNDER § 17-408 OF THIS SUBTITLE, THE NOTICE REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL CONTAIN THE FOLLOWING STATEMENT:

"THE RECORDS AT (NAME OF MUSEUM) INDICATE THAT YOU HAVE PROPERTY ON LOAN TO IT. THE MUSEUM HEREBY TERMINATES THE LOAN. IF YOU DESIRE TO

CLAIM THE PROPERTY, YOU MUST CONTACT THE MUSEUM, ESTABLISH YOUR OWNERSHIP OF THE PROPERTY, AND MAKE ARRANGEMENTS TO COLLECT THE PROPERTY. IF YOU DO NOT CONTACT THE MUSEUM WITHIN 60 DAYS, YOU WILL BE CONSIDERED TO HAVE DONATED THE PROPERTY TO THE MUSEUM.”.

(3) IF, WITHIN 60 DAYS AFTER RECEIVING THE NOTICE, THE LENDER DOES NOT RESPOND BY FILING A NOTICE OF INTENT TO PRESERVE AN INTEREST IN THE PROPERTY ON LOAN, CLEAR AND UNRESTRICTED TITLE IS TRANSFERRED TO THE MUSEUM.

(B) IF A LOAN OF PROPERTY TO A MUSEUM IS NOT A PERMANENT LOAN AND DOES NOT HAVE A SPECIFIC EXPIRATION DATE, THE PROPERTY IS PRESUMED ABANDONED IF, FOR AT LEAST 7 YEARS AFTER THE DATE THE MUSEUM TOOK POSSESSION OF THE PROPERTY, THERE HAS NOT BEEN ANY WRITTEN COMMUNICATION BETWEEN THE MUSEUM AND THE LENDER OR LENDER’S DESIGNATED AGENT.

17-403.

(A) A MUSEUM MAY ACQUIRE TITLE TO UNDOCUMENTED PROPERTY HELD BY THE MUSEUM FOR AT LEAST 3 YEARS BY GIVING NOTICE THAT THE MUSEUM IS ASSERTING TITLE TO THE UNDOCUMENTED PROPERTY.

(B) IN ADDITION TO THE INFORMATION REQUIRED UNDER § 17-408 OF THIS SUBTITLE, THE NOTICE REQUIRED UNDER SUBSECTION (A) OF THIS SECTION SHALL CONTAIN THE FOLLOWING STATEMENT:

“THE RECORDS OF (NAME OF MUSEUM) FAIL TO INDICATE THE OWNER OF RECORD OF CERTAIN PROPERTY IN ITS POSSESSION. THE MUSEUM HEREBY ASSERTS TITLE TO THE FOLLOWING PROPERTY: (GENERAL DESCRIPTION OF PROPERTY). IF YOU CLAIM OWNERSHIP OR OTHER LEGAL INTEREST IN THIS PROPERTY, YOU MUST CONTACT THE MUSEUM, ESTABLISH OWNERSHIP OF THE PROPERTY, AND MAKE ARRANGEMENTS TO COLLECT THE PROPERTY. IF YOU FAIL TO DO SO WITHIN 60 DAYS, YOU WILL BE CONSIDERED TO HAVE WAIVED ANY CLAIM YOU MAY HAVE HAD TO THE PROPERTY.”.

(C) IF, WITHIN 60 DAYS AFTER NOTICE IS PROVIDED, THE LENDER DOES NOT RESPOND BY GIVING WRITTEN NOTICE OF INTENT TO RETAIN AN INTEREST IN THE PROPERTY ON LOAN, THE MUSEUM’S TITLE TO THE PROPERTY BECOMES ABSOLUTE.

17-404.

(A) (1) A MUSEUM MAY ACQUIRE TITLE TO AN UNSOLICITED DONATION FOUND ON MUSEUM PROPERTY BY GIVING NOTICE THAT THE MUSEUM IS ASSERTING TITLE TO THE UNSOLICITED DONATION.

(2) IN ADDITION TO THE INFORMATION REQUIRED UNDER § 17-408 OF THIS SUBTITLE, THE NOTICE REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL CONTAIN THE FOLLOWING STATEMENT:

“THE FOLLOWING PROPERTY WAS FOUND AT (NAME OF MUSEUM) AND IS PRESUMED TO BE A DONATION TO THE MUSEUM. THE MUSEUM HEREBY ASSERTS TITLE TO THE FOLLOWING PROPERTY: (GENERAL DESCRIPTION OF PROPERTY). ANYONE CLAIMING OWNERSHIP OR OTHER LEGAL INTEREST IN THIS PROPERTY MUST CONTACT THE MUSEUM, ESTABLISH OWNERSHIP OF THE PROPERTY, AND MAKE ARRANGEMENTS TO COLLECT THE PROPERTY. IF YOU FAIL TO DO SO WITHIN 60 DAYS OF THIS NOTICE YOU WILL HAVE WAIVED ANY CLAIM TO THIS PROPERTY.”.

(3) AN UNSOLICITED DONATION IS PRESUMED TO BE A GIFT TO THE MUSEUM IF OWNERSHIP IS NOT CLAIMED WITHIN 60 DAYS AFTER THE NOTICE REQUIRED UNDER THIS SECTION.

(B) UNDOCUMENTED PROPERTY FOUND IN THE COLLECTION OF A MUSEUM IS NOT AN UNSOLICITED DONATION AND IS SUBJECT TO § 17-403 OF THIS SUBTITLE. 17-405.

(A) UNLESS THERE IS AN AGREEMENT OTHERWISE BETWEEN THE MUSEUM AND THE LENDER, A MUSEUM MAY APPLY CONSERVATION MEASURES TO PROPERTY ON LOAN TO THE MUSEUM WITHOUT RECEIVING THE LENDER’S PERMISSION OR GIVING THE LENDER FORMAL NOTICE IF:

(1) ACTION IS REQUIRED TO PROTECT THE PROPERTY ON LOAN OR OTHER PROPERTY IN THE CUSTODY OF THE MUSEUM; OR

(2) THE PROPERTY ON LOAN IS A HAZARD TO THE HEALTH AND SAFETY OF THE PUBLIC OR THE MUSEUM STAFF.

(B) IF A MUSEUM APPLIES CONSERVATION MEASURES TO PROPERTY UNDER THIS SECTION OR WITH THE AGREEMENT OF THE LENDER, UNLESS THE AGREEMENT PROVIDES OTHERWISE, THE MUSEUM:

(1) ACQUIRES A LIEN ON THE PROPERTY IN THE AMOUNT OF THE COST OF THE CONSERVATION MEASURES INCURRED BY THE MUSEUM; AND

(2) IS NOT LIABLE FOR INJURY TO OR LOSS OF THE PROPERTY IF THE MUSEUM:

(I) HAD A REASONABLE BELIEF AT THE TIME THE CONSERVATION MEASURE ACTION WAS TAKEN THAT THE ACTION WAS NECESSARY TO PROTECT THE PROPERTY ON LOAN OR OTHER PROPERTY IN THE CUSTODY OF THE MUSEUM, OR THAT THE PROPERTY ON LOAN WAS A HAZARD TO THE HEALTH AND SAFETY OF THE PUBLIC OR THE MUSEUM STAFF; AND

(II) EXERCISED REASONABLE CARE IN THE CHOICE AND APPLICATION OF CONSERVATION MEASURES.

17-406.

(A) (1) EXCEPT AS PROVIDED IN § 17-407 OF THIS SUBTITLE, A MUSEUM SHALL PROVIDE THE NOTICE REQUIRED UNDER THIS SUBTITLE BY CERTIFIED MAIL TO THE LAST KNOWN ADDRESS OF THE LENDER.

(2) THE NOTICE REQUIREMENT IS SATISFIED IF THE MUSEUM RECEIVES PROOF OF RECEIPT OF THE NOTICE WITHIN 30 DAYS AFTER THE NOTICE WAS MAILED.

(B) A LENDER SHALL PROVIDE WRITTEN NOTICE TO THE MUSEUM OF A CHANGE IN ADDRESS OF:

(1) THE LENDER; OR

(2) ANY DESIGNATED AGENT OF THE LENDER.

(C) IF THE OWNERSHIP OF PROPERTY ON LOAN TO A MUSEUM CHANGES WHILE THE MUSEUM IS IN POSSESSION OF THE PROPERTY, THE NEW OWNER OF THE PROPERTY MUST PROVIDE WRITTEN NOTICE TO THE MUSEUM OF:

(1) THE CHANGE OF OWNERSHIP OF THE PROPERTY; AND

(2) THE NAME AND ADDRESS OF THE NEW OWNER.

17-407.

(A) A MUSEUM MAY PROVIDE THE NOTICE REQUIRED UNDER THIS SUBTITLE BY PUBLICATION IF THE MUSEUM DOES NOT:

(1) KNOW THE IDENTITY OF THE LENDER OR A DESIGNATED AGENT

1 OF THE LENDER;

2 (2) KNOW THE ADDRESS OF THE LENDER OR A DESIGNATED AGENT
3 OF THE LENDER; OR

4 (3) RECEIVE PROOF OF RECEIPT OF A NOTICE THAT WAS SENT BY
5 CERTIFIED MAIL WITHIN 30 DAYS AFTER THE NOTICE WAS MAILED.

6 (B) A NOTICE BY PUBLICATION SHALL BE PUBLISHED AT LEAST ONCE A
7 WEEK FOR 2 CONSECUTIVE WEEKS IN A NEWSPAPER OF GENERAL CIRCULATION IN:

8 (1) THE COUNTY IN WHICH THE MUSEUM IS LOCATED; AND

9 (2) IF THE IDENTITY OF THE LENDER IS KNOWN, THE COUNTY OF THE
10 LENDER'S LAST KNOWN ADDRESS.

11 17-408.

12 IN ADDITION TO ANY OTHER INFORMATION REQUIRED UNDER THIS SUBTITLE,
13 ANY NOTICE GIVEN BY A MUSEUM UNDER THIS SUBTITLE SHALL CONTAIN:

14 (1) IF KNOWN, THE NAME OF THE LENDER OR THE DESIGNATED
15 AGENT OF THE LENDER;

16 (2) IF KNOWN, THE LAST KNOWN ADDRESS OF THE LENDER OR THE
17 DESIGNATED AGENT OF THE LENDER;

18 (3) A BRIEF DESCRIPTION OF THE PROPERTY ON LOAN;

19 (4) IF KNOWN, THE DATE OF THE LOAN;

20 (5) THE NAME OF THE MUSEUM; AND

21 (6) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE PERSON
22 OR OFFICE AT THE MUSEUM TO CONTACT REGARDING THE PROPERTY.

23 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
24 October 1, 2020.