

SENATE BILL 88

I4
SB 255/19 – JPR

(PRE-FILED)

0lr0911
CF HB 21

By: **Senator Hayes**

Requested: October 15, 2019

Introduced and read first time: January 8, 2020

Assigned to: Judicial Proceedings

A BILL ENTITLED

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.

24 Abandoned Property in Possession of a Museum”

25 Annotated Code of Maryland

26 (2013 Replacement Volume and 2019 Supplement)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

1 TRANSFER OF TITLE TO THAT PROPERTY.

2 (F) “MUSEUM” MEANS AN INSTITUTION LOCATED IN THE STATE THAT:

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

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

7 (G) “PERMANENT LOAN” MEANS A LOAN OF PROPERTY TO A MUSEUM FOR
8 AN INDEFINITE PERIOD.

9 (H) “PROPERTY” MEANS A TANGIBLE OBJECT UNDER A MUSEUM’S CARE
10 THAT HAS INTRINSIC HISTORIC, ARTISTIC, SCIENTIFIC, OR CULTURAL VALUE.

11 (I) “UNDOCUMENTED PROPERTY” MEANS PROPERTY IN THE POSSESSION
12 OF A MUSEUM FOR WHICH THE MUSEUM CANNOT DETERMINE THE OWNER BY
13 REFERENCE TO THE MUSEUM’S RECORDS.

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

17 17-402.

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

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

25 “THE RECORDS AT (NAME OF MUSEUM) INDICATE THAT YOU HAVE PROPERTY
26 ON LOAN TO IT. THE MUSEUM HEREBY TERMINATES THE LOAN. IF YOU DESIRE TO
27 CLAIM THE PROPERTY, YOU MUST CONTACT THE MUSEUM, ESTABLISH YOUR
28 OWNERSHIP OF THE PROPERTY, AND MAKE ARRANGEMENTS TO COLLECT THE
29 PROPERTY. IF YOU DO NOT CONTACT THE MUSEUM WITHIN 60 DAYS, YOU WILL BE
30 CONSIDERED TO HAVE DONATED THE PROPERTY TO THE MUSEUM.”.

31 (3) IF, WITHIN 60 DAYS AFTER RECEIVING THE NOTICE, THE LENDER

1 DOES NOT RESPOND BY FILING A NOTICE OF INTENT TO PRESERVE AN INTEREST IN
2 THE PROPERTY ON LOAN, CLEAR AND UNRESTRICTED TITLE IS TRANSFERRED TO
3 THE MUSEUM.

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

10 17-403.

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

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

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

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

29 17-404.

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

33 (2) IN ADDITION TO THE INFORMATION REQUIRED UNDER § 17-408
34 OF THIS SUBTITLE, THE NOTICE REQUIRED UNDER PARAGRAPH (1) OF THIS

1 SUBSECTION SHALL CONTAIN THE FOLLOWING STATEMENT:

2 “THE FOLLOWING PROPERTY WAS FOUND AT (NAME OF MUSEUM) AND IS
3 PRESUMED TO BE A DONATION TO THE MUSEUM. THE MUSEUM HEREBY ASSERTS
4 TITLE TO THE FOLLOWING PROPERTY: (GENERAL DESCRIPTION OF PROPERTY).
5 ANYONE CLAIMING OWNERSHIP OR OTHER LEGAL INTEREST IN THIS PROPERTY
6 MUST CONTACT THE MUSEUM, ESTABLISH OWNERSHIP OF THE PROPERTY, AND
7 MAKE ARRANGEMENTS TO COLLECT THE PROPERTY. IF YOU FAIL TO DO SO WITHIN
8 60 DAYS OF THIS NOTICE YOU WILL HAVE WAIVED ANY CLAIM TO THIS PROPERTY.”.

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

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

14 17-405.

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

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

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

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

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

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

30 (I) HAD A REASONABLE BELIEF AT THE TIME THE
31 CONSERVATION MEASURE ACTION WAS TAKEN THAT THE ACTION WAS NECESSARY
32 TO PROTECT THE PROPERTY ON LOAN OR OTHER PROPERTY IN THE CUSTODY OF

1 THE MUSEUM, OR THAT THE PROPERTY ON LOAN WAS A HAZARD TO THE HEALTH
2 AND SAFETY OF THE PUBLIC OR THE MUSEUM STAFF; AND

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

5 17-406.

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

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

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

14 (1) THE LENDER; OR

15 (2) ANY DESIGNATED AGENT OF THE LENDER.

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

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

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

21 17-407.

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

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

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

28 (3) RECEIVE PROOF OF RECEIPT OF A NOTICE THAT WAS SENT BY

CERTIFIED MAIL WITHIN 30 DAYS AFTER THE NOTICE WAS MAILED.

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

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

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

17-408.

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

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

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

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

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

(5) THE NAME OF THE MUSEUM; AND

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

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