

HOUSE BILL 1302

I4, C2

9lr3242
CF SB 255

By: **Delegate Cardin**

Introduced and read first time: February 14, 2019

Assigned to: Rules and Executive Nominations

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 2018 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 § 17-408 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 ADDRESS" 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 PREVENTATIVE 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.

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

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

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

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

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

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

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

16 17-402.

17 (A) (1) A MUSEUM SHALL PROVIDE THE NOTICE REQUIRED UNDER THIS
18 SUBTITLE BY CERTIFIED MAIL TO THE LAST KNOWN ADDRESS OF THE LENDER.

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

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

24 (1) THE LENDER; OR

25 (2) ANY DESIGNATED AGENT OF THE LENDER.

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

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

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

3 **17-403.**

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

6 **(1) KNOW THE IDENTITY OF THE LENDER OR A DESIGNATED AGENT**
7 **OF THE LENDER;**

8 **(2) KNOW THE ADDRESS OF THE LENDER OR A DESIGNATED AGENT**
9 **OF THE LENDER; OR**

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

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

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

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

17 **17-404.**

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

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

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

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

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

26 **(5) THE NAME OF THE MUSEUM; AND**

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

3 **17-405.**

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

8 **(2) IN ADDITION TO THE INFORMATION REQUIRED UNDER § 17-404**
9 **OF THIS SUBTITLE, THE NOTICE REQUIRED UNDER PARAGRAPH (1) OF THIS**
10 **SUBSECTION SHALL CONTAIN THE FOLLOWING STATEMENT:**

11 **“THE RECORDS AT (NAME OF MUSEUM) INDICATE THAT YOU HAVE PROPERTY**
12 **ON LOAN TO IT. THE MUSEUM HEREBY TERMINATES THE LOAN. IF YOU DESIRE TO**
13 **CLAIM THE PROPERTY, YOU MUST CONTACT THE MUSEUM, ESTABLISH YOUR**
14 **OWNERSHIP OF THE PROPERTY, AND MAKE ARRANGEMENTS TO COLLECT THE**
15 **PROPERTY. IF YOU DO NOT CONTACT THE MUSEUM WITHIN 60 DAYS, YOU WILL BE**
16 **CONSIDERED TO HAVE DONATED THE PROPERTY TO THE MUSEUM.”**

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

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

27 **17-406.**

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

31 **(B) IN ADDITION TO THE INFORMATION REQUIRED UNDER § 17-404 OF THIS**
32 **SUBTITLE, THE NOTICE REQUIRED UNDER SUBSECTION (A) OF THIS SECTION SHALL**
33 **CONTAIN THE FOLLOWING STATEMENT:**

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

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

13 **17-407.**

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

17 **(2) IN ADDITION TO THE INFORMATION REQUIRED UNDER § 17-404**
18 **OF THIS SUBTITLE, THE NOTICE REQUIRED UNDER PARAGRAPH (1) OF THIS**
19 **SUBSECTION SHALL CONTAIN THE FOLLOWING STATEMENT:**

20 **“THE FOLLOWING PROPERTY WAS FOUND AT (NAME OF MUSEUM) AND IS**
21 **PRESUMED TO BE A DONATION TO THE MUSEUM. THE MUSEUM HEREBY ASSERTS**
22 **TITLE TO THE FOLLOWING PROPERTY: (GENERAL DESCRIPTION OF PROPERTY).**
23 **ANYONE CLAIMING OWNERSHIP OR OTHER LEGAL INTEREST IN THIS PROPERTY**
24 **MUST CONTACT THE MUSEUM, ESTABLISH OWNERSHIP OF THE PROPERTY, AND**
25 **MAKE ARRANGEMENTS TO COLLECT THE PROPERTY. IF YOU FAIL TO DO SO WITHIN**
26 **60 DAYS OF THIS NOTICE YOU WILL HAVE WAIVED ANY CLAIM TO THIS PROPERTY.”.**

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

30 **(B) UNDOCUMENTED PROPERTY FOUND IN THE COLLECTION OF A MUSEUM**
31 **IS NOT AN UNSOLICITED DONATION AND IS SUBJECT TO § 17-406 OF THIS SUBTITLE.**

32 **17-408.**

33 **(A) UNLESS THERE IS AN AGREEMENT OTHERWISE BETWEEN THE MUSEUM**
34 **AND THE LENDER, A MUSEUM MAY APPLY CONSERVATION MEASURES TO PROPERTY**

1 ON LOAN TO THE MUSEUM WITHOUT RECEIVING THE LENDER'S PERMISSION OR
2 GIVING THE LENDER FORMAL NOTICE IF:

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

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

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

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

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

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

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

21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
22 October 1, 2019.