

# SENATE BILL 255

I4, C2

9lr0611  
CF HB 1302

---

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

Introduced and read first time: January 25, 2019

Assigned to: Judicial Proceedings

---

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 12, 2019

---

## 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 certain  
14 ~~property on loan to the museum~~; providing that a museum, under certain  
15 circumstances, acquires a lien on certain property in the amount of conservation  
16 measure costs incurred by the museum; providing that a museum, with a certain  
17 belief and exercising certain care, is not liable for injury or loss to certain property  
18 when taking certain conservation measures; defining certain terms; and generally  
19 relating to 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”

---

### 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.



1 Annotated Code of Maryland  
2 (2013 Replacement Volume and 2018 Supplement)

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

5 **Article – Commercial Law**

6 **SUBTITLE 8. MUSEUM’S LIEN.**

7 **16–801.**

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

10 **16–802.**

11 (A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A MUSEUM  
12 THAT APPLIES CONSERVATION MEASURES UNDER § 17–408 OF THIS ARTICLE TO  
13 PROPERTY ON LOAN TO THE MUSEUM HAS A LIEN ON PROPERTY FOR THE COSTS OF  
14 THE CONSERVATION MEASURES.

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

18 **SUBTITLE 4. ABANDONED PROPERTY IN POSSESSION OF A MUSEUM.**

19 **17–401.**

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

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

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

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

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

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

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

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

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

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

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

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

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

21 17-402.

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

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

27 (B) A LENDER SHALL PROVIDE WRITTEN NOTICE TO THE MUSEUM WITHIN 1  
28 YEAR OF A CHANGE IN ADDRESS OF:

29 (1) THE LENDER; OR

30 (2) ANY DESIGNATED AGENT OF THE LENDER.

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

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

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

6 **17-403.**

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

9           **(1) KNOW THE IDENTITY OF THE LENDER OR A DESIGNATED AGENT**  
10 **OF THE LENDER;**

11           **(2) KNOW THE ADDRESS OF THE LENDER OR A DESIGNATED AGENT**  
12 **OF THE LENDER; OR**

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

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

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

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

20 **17-404.**

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

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

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

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

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

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

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

4 **17-405.**

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

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

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

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

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

28 **17-406.**

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

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

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

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

16 **17-407.**

17           **(A) (1) A MUSEUM MAY ACQUIRE TITLE TO AN UNSOLICITED DONATION**  
18 **FOUND ON MUSEUM PROPERTY BY GIVING NOTICE IN ACCORDANCE WITH § 17-403**  
19 **OF THIS SUBTITLE THAT THE MUSEUM IS ASSERTING TITLE TO THE UNSOLICITED**  
20 **DONATION.**

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

24           **“THE FOLLOWING PROPERTY WAS FOUND AT (NAME OF MUSEUM) AND IS**  
25 **PRESUMED TO BE A DONATION TO THE MUSEUM. THE MUSEUM HEREBY ASSERTS**  
26 **TITLE TO THE FOLLOWING PROPERTY: (GENERAL DESCRIPTION OF PROPERTY).**  
27 **ANYONE CLAIMING OWNERSHIP OR OTHER LEGAL INTEREST IN THIS PROPERTY**  
28 **MUST CONTACT THE MUSEUM, ESTABLISH OWNERSHIP OF THE PROPERTY, AND**  
29 **MAKE ARRANGEMENTS TO COLLECT THE PROPERTY. IF YOU FAIL TO DO SO WITHIN**  
30 **60 DAYS OF THIS NOTICE YOU WILL HAVE WAIVED ANY CLAIM TO THIS PROPERTY.”.**

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

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

1 17-408.

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

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

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

10 (A) SUBJECT TO SUBSECTION (B) OF THIS SECTION, A MUSEUM MAY APPLY  
11 CONSERVATION MEASURES TO:

12 (1) PROPERTY ON LOAN TO THE MUSEUM WITHOUT RECEIVING THE  
13 LENDER'S PERMISSION OR GIVING THE LENDER FORMAL NOTICE, UNLESS THERE IS  
14 AN AGREEMENT OTHERWISE BETWEEN THE MUSEUM AND THE LENDER;

15 (2) UNDOCUMENTED PROPERTY; OR

16 (3) AN UNSOLICITED DONATION.

17 (B) A MUSEUM MAY APPLY CONSERVATION MEASURES TO PROPERTY  
18 SPECIFIED UNDER SUBSECTION (A) OF THIS SECTION ONLY IF:

19 (1) ACTION IS REQUIRED TO PROTECT THE PROPERTY FROM  
20 IRREPARABLE HARM; OR

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

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

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

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

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

Approved:

---

Governor.

---

President of the Senate.

---

Speaker of the House of Delegates.