

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

ENGROSSED

Committee Substitute

for

House Bill 5059

By Delegates Akers, Heckert, and Funkhouser

[Originating in the Committee on the Judiciary;

reported on February 27, 2026]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding a new article,
2 designated §36-8B-1, §36-8B-2, §36-8B-3, §36-8B-4, §36-8B-5, §36-8B-6, §36-8B-7, and
3 §36-8B-8, relating to authorizing cultural heritage institutions to claim title to certain
4 property in possession of the cultural heritage institution after providing certain notices;
5 providing for definitions; describing property on permanent loan; describing undocumented
6 property; clarifying unsolicited donations; setting forth conversation measures; setting forth
7 notice by certified mail; when notice by publication may be made; information required for
8 all forms of notice; and providing information required in a notice.

Be it enacted by the Legislature of West Virginia:

**ARTICLE 8B. ABANDONED PROPERTY IN POSSESSION OF A CULTURAL
HERITAGE INSTITUTION.**

§36-8B-1. Definitions.

1 The following words and terms are defined:

2 (a) "Address of the Lender" means the most recent address of a lender as shown on the
3 cultural heritage institution's records pertaining to property on loan from the lender.

4 (b) "Conservation Measure" means any action taken toward the long-term preservation of
5 property and includes examination, documentation, treatment, and preventive care of property,
6 supported by research and education.

7 (c) "Cultural heritage institution" means an institution located in the state that:

8 (1) Is operated primarily for education, scientific, historic preservation, or aesthetic
9 purposes; and

10 (2) Owns, borrows, cares for, exhibits, studies, archives, or catalogs property; and

11 (3) Includes museums, libraries, archives, and historical societies.

12 (d) "Lender" means a person or entity whose name appears on the records of a cultural
13 heritage institution as the person or entity legally entitled to, or claiming to be legally entitled to,
14 property held by the cultural heritage institution.

15 (e) "Loan" means a deposit of property not accompanied by a transfer of title to that
16 property.

17 (f) "Indefinite Loan" means a loan of property to a cultural heritage institution for an
18 unspecified period of time.

19 (g) "Property" means a tangible object under a cultural heritage institution's care that has
20 intrinsic historic, artistic, scientific, or cultural value.

21 (h) "Undocumented Property" means property in the possession of a cultural heritage
22 institution for which the cultural heritage institution cannot determine the owner by reference to the
23 cultural heritage institution's records.

24 (i) "Unsolicited Donation" means any property under the control of a cultural heritage
25 institution that is from an unknown source and can be reasonably assumed to have been intended
26 as a gift to the cultural heritage institution.

§36-8B-2. Property on permanent loan.

1 (a) (1) A cultural heritage institution may acquire title to property that is on permanent loan
2 to the cultural heritage institution, or that was loaned for a specified term that has expired, by
3 giving notice that the cultural heritage institution is terminating the loan of the property.

4 (2) In addition to the information required under article, the notice required under this
5 section shall contain the following statement: "The records at (name of cultural heritage institution)
6 indicate that you have property on loan to it. The cultural heritage institution terminates the loan. If
7 you desire to claim the property, you shall contact the cultural heritage institution, establish your
8 ownership of the property, and make arrangements to collect the property. If you do not contact the
9 cultural heritage institution within 60 days, you will be considered to have donated the property to
10 the cultural heritage institution".

11 (3) If, within 60 days after receiving the notice, the lender does not respond by filing a
12 notice of intent to preserve an interest in the property on loan, clear and unrestricted title is
13 transferred to the cultural heritage institution.

14 (b) If a loan of property to a cultural heritage institution is not a permanent loan and does
15 not have a specific expiration date, the property is presumed abandoned if, for at least seven years
16 after the date the cultural heritage institution took possession of the property, there has not been
17 any written communication between the cultural heritage institution and the lender or lender's
18 designated agent.

§36-8B-3. Undocumented property.

1 (a) A cultural heritage institution may acquire title to undocumented property held by the
2 cultural heritage institution for at least three years by giving notice that the cultural heritage
3 institution is asserting title to the undocumented property.

4 (b) In addition to the information required under this article, the notice required under this
5 section shall contain the following statement: "The records of (name of cultural heritage institution)
6 fail to indicate the owner of record of certain property in its possession. The cultural heritage
7 institution hereby asserts title to the following property: (general description of property). If you
8 claim ownership or other legal interest in this property, you shall contact the cultural heritage
9 institution, establish ownership of the property, and make arrangements to collect the property. If
10 you fail to do so within 60 days, you will be considered to have waived any claim you may have had
11 to the property".

12 (c) If, within 60 days after notice is provided, the lender does not respond by giving written
13 notice of intent to retain an interest in the property on loan, the cultural heritage institution's title to
14 the property becomes absolute.

§36-8B-4. Unsolicited donations.

1 (a) (1) A cultural heritage institution may acquire title to an unsolicited donation found on
2 cultural heritage institution property by giving notice that the cultural heritage institution is
3 asserting title to the unsolicited donation.

4 (2) In addition to the information required under this article, the notice required under
5 section shall contain the following statement: "The following property was found at (name of
6 cultural heritage institution) and is presumed to be a donation to the cultural heritage institution.
7 The cultural heritage institution hereby asserts title to the following property: (general description
8 of property). Anyone claiming ownership or other legal interest in this property must contact the
9 cultural heritage institution, establish ownership of the property, and make arrangements to collect
10 the property. If you fail to do so within 60 days of this notice you will have waived any claim to this
11 property".

12 (3) An unsolicited donation is presumed to be a gift to the cultural heritage institution if
13 ownership is not claimed within 60 days after the notice required under this section.

14 (b) Undocumented property found in the collection of a cultural heritage institution is not an
15 unsolicited donation and is subject to §36-8B-3.

§36-8B-5. Conservation measures.

1 (a) Unless there is an agreement otherwise between the cultural heritage institution and
2 the lender, a cultural heritage institution may apply conservation measures to property on loan to
3 the cultural heritage institution without receiving the lender's permission or giving the lender formal
4 notice if: (1) action is required to protect the property on loan or other property in the custody of the
5 cultural heritage institution; or (2) the property on loan is a hazard to the health and safety of the
6 public or the cultural heritage institution staff.

7 (b) If a cultural heritage institution applies conservation measures to property under this
8 section or with the agreement of the lender, unless the agreement provides otherwise, the cultural
9 heritage institution: (1) acquires a lien on the property in the amount of the cost of the conservation
10 measures incurred by the cultural heritage institution; and (2) is not liable for injury to or loss of the

11 property if the cultural heritage institution: (A) had a reasonable belief at the time the conservation
12 measure action was taken that the action was necessary to protect the property on loan or other
13 property in the custody of the cultural heritage institution, or that the property on loan was a hazard
14 to the health and safety of the public or the cultural heritage institution staff; and (B) exercised
15 reasonable care in the choice and application of conservation measures.

§36-8B-6. Notice by certified mail; when notice by publication may be made; information required for all forms of notice.

1 (a) (1) Except as provided in §36-8B-7, a cultural heritage institution shall provide the
2 notice required under this article by certified mail to the last known address of the lender.

3 (2) The notice requirement is satisfied if the cultural heritage institution receives proof of
4 receipt of the notice within 30 days after the notice was mailed.

5 (b) A lender shall provide written notice to the cultural heritage institution of a change in
6 address of:

7 (1) The lender; or

8 (2) Any designated agent of the lender.

9 (c) If the ownership of property on loan to a cultural heritage institution changes while the
10 cultural heritage institution is in possession of the property, the new owner of the property shall
11 provide written notice to the cultural heritage institution of:

12 (1) The change of ownership of the property; and

13 (2) The name and address of the new owner.

§36-8B-7. Notice by publication.

1 (a) A cultural heritage institution may provide the notice required under this article by
2 publication if the cultural heritage institution:

3 (1) Has complied with the certified mail notice requirements under §36-8B-6 and the notice
4 was returned as undelivered, refused, or not accepted; or

5 (2) After reasonable effort to identify and locate the lender or designated agent, the
6 institution cannot determine the identity of the current lender or the lender's last known address.

7 (b) Notice by publication shall be made as a Class II legal advertisement in compliance
8 with §59-3-1 et seq. of this code, published at least once a week for two successive weeks in a
9 qualified newspaper of general circulation in the county of the institution's primary location, and, if
10 known, the county of the lender's last known address.

§36-8B-8. Information required in a notice.

1 (a) In addition to any other information required under this article, any notice given by a
2 cultural heritage institution under this subtitle shall contain the following:

3 (1) If known, the name of the lender, donor, or the designated agent of the lender or donor;

4 (2) If known, the last known address of the lender, donor, or the designated agent of the
5 lender or donor;

6 (3) A brief description of the property in question;

7 (4) If known, the date of the loan or donation and arrival date of the property in question;

8 (5) The name of the cultural heritage institution; and

9 (6) The name, address, and telephone number of the person or office at the cultural
10 heritage institution to contact regarding the property.