

PA12-171

HB5355

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and House of Representatives Proceedings

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REP. AYALA (128th):

Today with us in the Chamber we have some students from Cesar Batalla School who are sitting in the gallery. This group of students come from our TAG Program, our Talented and Gifted Program. They've been working with one of our local nonprofits from the city of Bridgeport, which is the Greater Bridgeport Latino Network, whose president, Lissette Andino, is up there as well. And I would like to recognize the work that they've done.

They had a civic engagement program that they were working with these students, and today this is one of their field trips, coming to the Capitol, seeing the great work that we do here. And I would like to see if my colleagues here in the Chamber can give them a warm welcome.

SPEAKER DONOVAN:

Thank you for joining us. How are you doing up there? Yeah, you can see yourselves on TV.

Thank you so much.

Will the Clerk please call Calendar 187?

THE CLERK:

On page 39, Calendar 187, House Bill Number 5355,
AN ACT CONCERNING MUSEUM PROPERTY, favored report by

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the Committee on Judiciary.

SPEAKER DONOVAN:

Representative Andrew Fleischmann, you have the floor, sir.

REP. FLEISCHMANN (18th):

Thank you, Mr. Speaker. Mr. Speaker, I move acceptance to the joint committee's favorable report and passage of the bill.

SPEAKER DONOVAN:

The questions on acceptance of the joint committee's favorable report and passage of the bill.

Will you remark?

REP. FLEISCHMANN (18th):

Yes, thank you, Mr. Speaker.

Mr. Speaker, this good bill before us was really brought forward by museums, historical societies and libraries in Connecticut. We're seeking to bring Connecticut in conformance with 36 other states that have dealt with a very simple but challenging problem that these organizations often face, where there is a loan that's made to a museum or historical society. A family forgets about it. The item languishes in storage. It needs protection. It needs conservation

and the donor completely neglects it. It becomes an orphan property.

The property enters into a limbo land where no one is sure who it belongs to, but the museum or historical society still has to take care of it. So our museums, libraries, historical societies are trying to get this situation fixed.

In that spirit, Mr. Speaker, the Clerk is in possession of an amendment, LCO Number 4570. I ask that the Clerk please call and I be given permission to summarize.

SPEAKER DONOVAN:

Will the Clerk please call LCO 4570, which will be designated House "A."

THE CLERK:

LCO 4570 House "A", offered by Representative Fleischmann and Giuliano.

SPEAKER DONOVAN:

Representative seeks to leave the Chamber summarized.

Any objection? Any objection?

Hearing none, representative you may proceed.

REP. FLEISCHMANN (18th):

I thank you, Mr. Speaker.

This amendment before us addresses some concerns. We heard from both sides of the aisle about a situation where a piece of property is forgotten, notice is given to seek the owner's information -- to get the owners to get back involved. The owners don't get back involved, and now, after 60 days, the owners discover, oops, oh, that was my piece of property.

And if you look at lines five through ten, this allows such an owner after 60 days to make a claim of ownership and reclaim a property that was inadvertently forgotten and not noticed after notice. I move adoption.

SPEAKER DONOVAN:

Question is on adoption?

Remark further?

Representative Hovey.

REP. HOVEY (112th):

Thank you, Mr. Speaker.

Through you, just a question to the proponent of the amendment.

SPEAKER DONOVAN:

Please proceed, madam.

REP. HOVEY (112th):

Thank you, sir.

Through you, sir, I -- the -- the concern that I have to the good gentleman is that there are some individuals who might unknowingly, or purposefully, use our -- our historical societies as storage facilities, where this material would require a significant amount of monies to store properly in another environment.

And so my concern, through you, Mr. Speaker, is this idea of giving the property back to the individual after the entity has stored it for a number of years, is there a fee or any kind of cost that they would also pass on to the individual who is now going to reclaim their property?

Through you, Mr. Speaker?

SPEAKER DONOVAN:

Representative Fleischmann.

REP. FLEISHMANN (18th):

Through you, Mr. Speaker.

No. However, I'd like to note that the language that we have before us was really developed in concert with the libraries, museums and historical societies of Connecticut. They're very sensitive to the fact that they don't want to potentially offend any donors or make people feel like they could be subject to an

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unreasonable taking. So they themselves felt that this language was reasonable. And I concluded if they thought it was reasonable, we should find it reasonable.

Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Hovey.

REP. HOVEY (112th):

Thank you, Mr. Speaker.

And I thank the good gentleman for his answer. I understand the sensitivity of this issue. I just had a concern that there may be some cost that would be incurred by the museum or historical group that they might want to recoup. And if everyone's agreed on this resolution, then I support it and I think this is an excellent idea.

Thank you, Mr. Speaker.

SPEAKER DONOVAN:

Thank you, Representative.

On the amendment, Representative Sawyer.

REP. SAWYER (55th):

Thank you, Mr. Speaker.

Question, through you, to the Chairman of the Education Committee.

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SPEAKER DONOVAN:

Please proceed, madam.

REP. SAWYER (55th):

Mr. Chairman, in trying to decipher the amendment and the section, I just guess I need one more explanation.

If you -- if -- on line 137, it's -- it -- it describes if there's no written claim of ownership is presented to the museum on or before 60 days after the publication of the second notice, and then we begin the -- then it talks about property shall be deemed abandoned. But then we go into the amendment, and on line eight, "The Museum shall return such property to the owner. If such property" -- I guess I'm just a little confused.

Would you -- could you just run through it one more time as to who -- at what point can an owner come back, before 60 days, after 60 days, for the property?

If you just -- could just describe the situation?

SPEAKER DONOVAN:

Representative Fleischmann.

REP. FLEISCHMANN (18th):

Thank you, Mr. Speaker.

Through you.

Without enactment of this amendment, what would happen is the library would make a good faith effort to contact the owner. If it heard nothing back -- or museum, or historical society -- if they heard nothing back, then they would have to go ahead and run a couple of newspaper advertisements making it clear that this property was in their collection and they're looking for the owner. If they still heard nothing back, then after 60 days, the title for the property would go to the museum, historical society or library. That's what the underlying bill does.

Under this amendment, we're saying, even if that 60-day clock has passed -- let's say it's a year later -- and a family is going through the estate of a loved one who's passed on, and realizes, wow, they put this painting on loan to the Connecticut Historical Society and we forgot about it and nobody noticed, but we'd like it back now, under this amendment, they could show that they had valid claim. They would need to have the title or deed and demonstrate it to the historical society or museum, and then that would be respected, and the property would revert back to the original owner.

Through you, Mr. Speaker.

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SPEAKER DONOVAN:

Representative Sawyer.

REP. SAWYER (55th):

I thank the gentleman for his answer. I was trying to sort out the 60 days and the early language and the second language. Certainly, we have the historical background of the -- in Germany, the properties that was take -- from art -- artifacts that were taken from Jewish families in Germany during World War II and the -- and even before World War II -- and in trying to restore them to the rightful owner, there has been a lot of international law that has been examined as to ownership and how you go about restoring someone's property if they can lay title to it.

So I appreciate the gentleman's answer, and the effort that will, I think, make it very clear for people who are trying to reclaim property that has been loaned.

Thank you, Mr. Speaker.

SPEAKER DONOVAN:

Thank you Representative.

Representative Smith -- Richard Smith.

REP. SMITH (108th):

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Good afternoon, Mr. Speaker.

Question for the proponent, please.

SPEAKER DONOVAN:

Please proceed, sir.

REP. SMITH (108th):

I just heard the exchange between Representative Sawyer and the good Representative about return of the goods back to the rightful owner. And my first question was going to be -- and I think it's been answered that -- whether there is a time limit on the ability to claim rightful ownership to the goods that are on loan to the museum. And so my question will be, is there a time limit at all?

Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Fleischmann.

REP. FLEISCHMANN (18th):

Under House Amendment "A," no.

SPEAKER DONOVAN:

Representative Smith.

REP. SMITH (108th):

And who makes the determination of -- of rightful ownership? Would that be the museum itself or some other entity?

Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Fleischmann.

REP. FLEISCHMANN (18th):

Through you, Mr. Speaker.

The term that's used here is a valid claim of ownership. I believe that's a term of art that involves demonstration of rightful ownership through legal documentation. So most museum curators and folks at historical societies are aware of how that works and would respect a valid claim of ownership.

If there were any doubts about it, it's something that could easily be settled by -- by our judicial system, I'm sure.

Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Smith.

REP. SMITH (108th):

Well, thank you for those answers. And I think this is a great bill. It's -- it's certainly one that's needed to safeguard those items that are on loan to museums that have, for some reason or another, never get retrieved. And I would urge the chamber to rule -- approve it.

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Thank you, Mr. Speaker.

SPEAKER DONOVAN:

Thank you, representative.

Representative Giuliano.

REP. GIULIANO (23rd):

Afternoon, Mr. Speaker.

SPEAKER DONOVAN:

Good afternoon, representative.

REP. GIULIANO (23rd):

Mr. Speaker, I rise in support of the amendment.

And I -- I have to say candidly that this is one of those bills which needed an amendment -- a bit of amending, but it's one of those bills that you love to see come along as a Legislator. It is clean. It solves a real life problem. It solves that problem in a way that is both fair, takes into consideration the needs and prerogatives of the lenders, as well as the institutions, whether they be our libraries, our historical societies or our museums. It is fair. It is cost effective, and I urge support of both the amendment and the underlying bill, Mr. Speaker.

Thank you.

SPEAKER DONOVAN:

Thank you, Representative.

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On the amendment, Representative Lavielle.

REP. LAVIELLE (143rd):

Thank you, Mr. Speaker. Good afternoon.

SPEAKER DONOVAN:

Good afternoon.

REP. LAVIELLE (143rd):

I, also, rise in support of the bill and the amendment. I voted for it in the Education Committee. So I just have a question for the proponent in terms of clarification, if I may?

SPEAKER DONOVAN:

Please proceed.

REP. LAVIELLE (143rd):

Thank you, Mr. Speaker.

The -- as the -- as the proponent has pointed out, the amendment makes reference to a valid claim of ownership. So assuming that that has been established, I just wanted to make sure that Section 9 of the bill, lines 80 -- 182 to 185, are -- are -- do -- do not apply once the valid claim of ownership has been demonstrated. And line 182 says, "The provisions of Sections 1 to 10 of this Act shall not preclude a museum from availing itself of any other means of establishing or perfecting title to property."

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Just wanted to make sure those two are not in conflict and that that's completely in order.

Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Fleischmann.

REP. FLEISCHMANN (18th):

Through you, Mr. Speaker.

Those two sections of the bill, as -- as it would be amended, are not in conflict.

SPEAKER DONOVAN:

Thank you. Representative Lavielle.

REP. LAVIELLE (143rd):

Thank you very much, Mr. Speaker.

I thank the proponent.

SPEAKER DONOVAN:

Thank you.

Representative Art O'Neill.

REP. O'NEILL (69th):

Yes, thank you, Mr. Speaker.

I'm going to ask a few questions of the proponent of the amendment. The underlying bill, which is going to be modified by this, would have allowed property to vest permanently -- title, rather, to the property to vest permanently in the museum.

This is going to allow for the property to be recovered in somewhat the same way that as cheated property can be recovered from the treasurer's office if you have an abandoned bank account. But the treasurer is somewhat different category from a museum, a private organization, particularly, or any of these types of setups.

So I'm going to ask a question that is -- was frequently asked of -- and anybody who is a lawyer will remember this question. So how does this work in bankruptcy? The museum -- I'll set up the -- the example -- the museum has now gotten title vested, but it's capable of being divested of that title, if a rightful owner shows up.

If the museum files for bankruptcy and the property is auctioned off to satisfy the debts of the museum, what happens to this property that -- and the rightful owner then shows up after the property title -- title to the property has been transferred, pursuant to some sort of sale of that sort?

Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Fleischmann.

REP. FLEISCHMANN (18th):

Through you, Mr. Speaker.

First, full disclosure. I'm not an attorney. I did not attend law school. I did not hear such hypotheticals. But it is my belief that the valid claim of ownership would remain valid.

Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative O'Neill.

REP. O'NEILL (69th):

I hope that's the case. I certainly think that the -- a piece of property that was never intended -- intended, at least by the original owner to be transferred title to it to an entity, which entity then goes bankrupt, would somehow turn title over to the ultimate third party that takes it in bankruptcy.

Taking it a step back from the bankruptcy situation, if the museum has title vested in it, a number of years go by and they decide, well, we want to sell this -- this painting by Munch -- which I guess I saw when it was at Southeby's it went for 200 million dollars -- was going to go for 200 million dollars. They decide, well, we've got this thing, we could use the money for other things. We're more interested in, you know, a different kind of artwork

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now. They sell the painting.

How is that going to be handled if the rightful owner shows up after the museum has sold the painting to a third party in connection with the -- the now -- this new right that's going to be created by the amendment? Does -- does the rightful owner get the property back?

Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Fleischmann.

REP. FLEISCHMANN (18th):

Through you, Mr. Speaker.

Two quick points to make in response. First, in the hypothetical, there was this extremely valuable property that was mentioned. The properties that are really covered under this bill tend not to be famous paintings, famous sculptures. People are very aware when those are placed on loan.

This bill is really to address all sorts of smaller items that get forgotten about that require special conditions, special humidities, special preservation, but they don't get remembered by the family. A painting by Edvard Munch would be remembered. If someone didn't remember it, they'd

scream.

That being said, Mr. Speaker, the question goes outside the purview of this bill. It gets into issues of common law regarding valid title after transfer. So again, I didn't go to law school. I'm not sure -- I believe a valid claim would remain a valid claim.

Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative O'Neill.

REP. O'NEILL (69th):

Thank you, Mr. Speaker.

Well, I -- the -- one of the comments that are sometimes made by new members of the Legislature is, we'll be talking about a bill that's going to do something and then they will say, but that's against the law, what you're proposing to do. And then one of us will say but that's what we do here. We change the law. So property law is what we're changing here. Because, right now, before the bill happens, the museum never acquires title to the property.

If it's abandoned, if it's truly deemed to have been abandoned, the state treasurer gets to be the owner of the property and takes care of it and holds it, and hopefully the state of Connecticut's Treasurer

will never be in a position where there will be a bankruptcy issue. They'll always be there to return the property, or return the money if the property was sold to give them the cash.

But here, we're dealing with creating a new right for a museum, and then -- and I think, legitimately we're trying to preserve the rights of, possibly, heirs or of the individual, if they become aware of the fact that this property is -- is now vested in the hands of the museum and it's no longer considered to be on loan because it was deemed to have been abandoned.

And -- but in so doing, we are changing property rights of people who loan things to museums. And apparently -- and I -- I like the amendment, but I'm thinking about how is this amendment going to work in practice when as, inevitably, someone's going to show up saying I'm the rightful owner.

You know, maybe it was, all of the effects of my father were left to me and the estate, you know, the estate was processed three years ago, or now I'm going through the estate and I suddenly come across this receipt showing that the thing was loaned to the such and such museum, I want it back. And the museum has

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either sold it or it has filed for bankruptcy. We're talking about creating a property right here.

And I know that this has been through Judiciary. When it went sailing through Judiciary, I think we were not looking at this amendment. At least I was not aware this amendment was going to come up. So how you get it back, and how much of a right we're creating here is what I'm trying to ascertain.

And I understand that the Chair of the Education Committee is -- is not an attorney. Perhaps I should direct my question to the Chair of the Judiciary Committee, who I notice is in the room, if -- if he has opinion as to how this is going to work out. Which -- which rights are going to prevail over which in -- once -- if this amendment is adopted.

So let me try that question to -- to him, through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Fox, there's a question from Representative O'Neill pertaining to the amendment which is before us. And he would -- I think he would like to have your opinion, Representative Fox. So if -- Representative O'Neill, if you choose to ask a question of Representative Fox, and if Representative

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Fox if you choose to answer it, we could have that discussion.

Representative Fox, are you willing to give an answer to the question?

REP. FOX (146th):

Yeah. First, Mr. Speaker, I'll do my best.

SPEAKER DONOVAN:

All right. Do your best. That's all we're asking.

Representative O'Neill.

REP. O'NEILL (69th):

Thank you, Mr. Speaker.

This bill went through the Judiciary Committee according to the record of its legislative history. And apparently -- and we're now placed -- facing an amendment, which basically says that the underlying bill authorizes the museum to take title to a piece of property that's deemed to be abandoned after a series of steps are taken to try to find the rightful owner, and after enough time -- I think it's five years has elapsed.

The amendment has the effect of giving rightful owners who come after the transfer of title has been made to the museum to come and claim the property.

And so that the -- the title by the museum is never really complete and vested in the hands of the museum as a -- as an absolute, but it seems to always be subject to the possibility that a rightful owner may show up making a claim for the property.

My initial question is -- was -- what happens in the event that the museum files for bankruptcy? But perhaps even before we get to that question, supposing the rightful owner shows up and the museum says, well, we sold it. Can the -- based on what the amendment says, and based on the status of our property laws in Connecticut, does this amendment basically give the rightful owner an ongoing claim, regardless of whether there are intervening third parties who have been good-faith purchasers of that piece of property?

In other words, is that piece of property always going to be subject to a kind of a cloud on title or a type of a lien that would run in favor of the rightful owner and/or the rightful owner's heirs, which I assume could become a rightful owner?

I know we looked at it in Judiciary, but this amendment wasn't on the bill when it came to us.

Through you, Mr. Speaker.

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Representative Fox.

REP. FOX (146th):

Thank you.

Thank you, Mr. Speaker.

I will try to answer. I do thank the -- the Representative for his summary of -- of how he potentially sees this. The way that I -- I would view it is that if the museum no longer had title to the property, meaning that they had sold it after they obtained title, but sold it to a -- to a third party, or if there was a bankruptcy proceeding that was ongoing and this -- this piece of property was part of that bank -- an asset as part of that bankruptcy proceeding, then I would think those laws would apply.

So I -- I think the purpose of the amendment and I -- I did not draft the amendment or -- or sponsor it, but it seems as if the intent of it is that in -- if a -- the rightful owner, or the previous owner, were to make a claim to the property while the property was still in the possession of the museum, then that would be the circumstance under which this amendment would apply. That's my thoughts.

SPEAKER DONOVAN:

Representative O'Neill.

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REP. O'NEILL (69th):

Thank you, Mr. Speaker.

And I thank the gentleman for his answer.

I'm not personally sure that should be the right answer, but at -- at least it's an answer. So that when a court is confronted with trying to come up with a decision about whether or not to honor the claim when a third party is now holding it, and -- and assuming that the museum is no longer available as a potential source of reimbursement or something like that, but the courts just got two people in front of it, I think this -- this is a -- is at least an answer that answers the question.

I like the amendment because it does continue to give rightful owners, the original donors -- or not donors -- lenders of this property, some way of getting it back. But I also think that we may be creating -- in those, perhaps, very rare circumstances when there is something of significant value, a question about who has title to it and whether or not there is a -- the claimant is going to be able to go after the third parties, and the third parties is aware of that claim, may be questioning whether or not they want to sell -- purchase these pieces of

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property. And so the museums themselves may have an issue with how they dispose of these things going forward, based on what's going to happen if the amendment is adopted and the potential issues that will arise.

When we get to the bill, I guess, perhaps, I'll -- I'll ask a few questions if there's some way that we can make sure that this is perhaps restricted to things that are not enough value so that people perhaps will not feel motivated to make the claims and then pursue them in court, if it gets to that point.

Thank you, Mr. Speaker.

SPEAKER DONOVAN:

Thank you, Representative.

On the amendment Representative LeGeyt.

REP. LEGEYT (17th):

Thank you, Mr. Speaker.

I rise to make a comment about this bill and, specifically, the amendment that's before us.

I'm -- I'm extremely encouraged by this bill that's coming out and fully support it, but the amendment gives me some pause. And I've been listening to the comments that have been made just prior to my getting up regarding the issue of the

amendment and reversion of ownership and title to the original owner once the museum would, absent this amendment, have perfected their title in a piece of property.

And I'm concerned -- and I don't want to go over some of the comments that have just been made -- but I'm concerned that this amendment, as it sits here, opens up a window of liability that has no end point. And we could go through scenarios about, you know, what would happen, what would happen, what would happen five, ten, 15, 20 years down the line. And without that closing of a loophole at some point, I'm going to have to vote against this amendment and certainly support the bill.

Thank you, Mr. Speaker.

SPEAKER DONOVAN:

Thank you, Representative.

Would you care to remark further on the amendment? Care to remark further on the amendment?

If not, let me try your minds.

All those in favor of the amendment please signify by saying Aye.

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Aye.

SPEAKER DONOVAN:

All those opposed, nay.

REPRESENTATIVES:

Nay.

SPEAKER DONOVAN:

The aye's have it. The amendment is adopted.

Would you remark further on the bill as amended.

Remark further on the bill as amended?

If not, staff and guests please come to well of the House. Members take their seats, the machine will be open.

THE CLERK:

The House of Representatives is voting by roll call. Members to the Chamber. The House is taking a roll call vote. Members to the Chamber, please.

SPEAKER DONOVAN:

Have all the members voted? Have all the members voted?

Please check the roll call board to make sure your vote has been properly cast.

If all of the members have voted, the machine will be locked. Clerk will take the tally.

Clerk, please announce the tally.

THE CLERK:

House Bill 5355 as amended by House "A"

Total Number Voting	139
Necessary for Passage	70
Those voting Yea	139
Those voting Nay	0
Those absent and not voting	12

SPEAKER DONOVAN:

The bill as amended has passed.

I would just like to have everyone's attention for a minute. As we continue our business in the last week, there are a number of us in this Chamber who will not be coming back next year.

So there's been a tradition in our Chamber for those people who will be moving on to other activities, we want to recognize those colleagues. We want to show them that we are grateful to their service, share our memories and friendship, and honor their contributions. And one of our traditions is actually to invite them up to the podium to act as speaker on bills before us.

Now, the way to do it and continue with the business at hand is we will call them up. They will -- certainly applaud when they come up -- but they

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calendar.

THE CHAIR:

5368 -- is that 5638, sir?

SENATOR LOONEY:

Five -- 5038.

THE CHAIR:

5038, thank you, sir.

So ordered.

SENATOR LOONEY:

Thank you, Madam President.

And Madam President, calendar page 22, Calendar 475, House Bill 5550 placed -- move to place the item on the consent calendar.

THE CHAIR:

So ordered, sir.

SENATOR LOONEY:

Thank you, Madam President.

Calendar page 18, Calendar 483, House Bill 5355, move to place the item on the consent calendar.

THE CHAIR:

So ordered, sir.

SENATOR LOONEY:

Thank you, Madam President.

Madam President, calendar page 24, Calendar 521, House Bill 5343, move to place the item on the consent calendar.

THE CHAIR:

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On page 3, Calendar 240, House Bill 3283; page 3, Calendar 299, House Bill 5437; page 5, Calendar 349, Senate Bill 374; page 6, Calendar 375, House Bill 5440; page 6, 362, House Bill 5011.

(HB 5283)

On page 7, Calendar 376, House Bill 5279; on page 7, 387, House Bill 5290; on page 8, 394, House Bill 5032; on page 8, 396, House Bill 5230.

Also on page 8, Calendar 398, House Bill 5241; on page 8, Calendar 393, House Bill 5307; on page 9, Calendar 403, House Bill 5087; on page 9, Calendar 406, House Bill 5276; on page 9, 407, House Bill 5484; on page 11, Calendar 424, House Bill 5495; on page 12, Calendar 435, House Bill 5232; on page 13, Calendar 5 -- excuse me Calendar 450, House Bill 5447; on page 14, Calendar 455, House Bill 3 -- I'm sorry -- House Bill 5353.

On page 14, Calendar 453, House Bill 5543; on page 14, Calendar 459, House Bill 5271; on page 15, Calendar 464, House Bill 5344; on page 15, Calendar 465, House Bill 5034; on page 16, Calendar 469, House Bill 5038; on page 17, Calendar 475, House Bill 5550; on page 17, Calendar 474, House Bill 5233; on page 17, Calendar 477, House Bill 5421.

Page 18, 480, House Bill 5258; on page 18, Calendar 479, House Bill 5500; page 18, Calendar 482, House Bill 5106; on page 18, Calendar 483, House Bill 5355; on page 19, Calendar 489, House Bill 5248; on page 19, Calendar 488, House Bill 5321; on page 20, Calendar 496, House Bill 5412.

On page 21, Calendar 504, House Bill 5319; page 21, Calendar 505, House Bill 5328; on page 22, Calendar 508, House Bill 5365; on page 22, Calendar 510, House Bill 5170; on page 23, Calendar 514, House Bill 5540; on page 23, Calendar 517, House Bill 5521.

Page 24, Calendar 521, House Bill 5343; page 24, Calendar 518, House Bill 5298; page 24, Calendar 523, House Bill 5504; page 29, Calendar 355, Senate Bill 418; on page 13, Calendar 444, 5037; and Calendar 507, House Bill 5467.

THE CHAIR:

Senator -- Senator Suzio.

SENATOR SUZIO:

rgd/tmj/gdm/gbr
SENATE

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May 9, 2012

Good evening, Madam President.

I just want to clarify. I thought I heard the Clerk call House Bill 5034? Is that on the consent calendar?

THE CHAIR:

Do you know what page that is, sir?

SENATOR SUZIO:

No I -- he was reading so fast, Madam, I couldn't get it.

THE CHAIR:

It's -- yes it's 53 -- I don't know.

SENATOR SUZIO:

5034.

THE CHAIR:

5034, yes sir.

SENATOR SUZIO:

I object to that being put on the consent calendar, Madam President.

THE CHAIR:

Okay, that will be removed.

Senator Looney.

SENATOR LOONEY:

Thank you, Madam President.

Yes, just seeing that -- ask to remove that item from the consent calendar.

THE CHAIR:

So ordered.

rgd/tmj/gdm/gbr
SENATE

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May 9, 2012

At this time we'll call a roll call vote on the consent calendar.

Mr. Clerk.

THE CLERK:

Immediate roll call has been ordered in the Senate.
Senators please return to the Chamber. Immediate roll call has been ordered in the Senate.

THE CHAIR:

Senator Coleman, we need your vote, sir.

Senator Kissel, Senator Kissel. Senator Kissel, will you vote on the consent calendar please?

All members have voted?

If all members have voted, the machine will be closed.

Mr. Clerk, will you call the amendment -- I meant the tally.

THE CLERK:

On today's consent calendar.

Total Number Voting	36
Necessary for Adoption	19
Those Voting Yea	36
Those Voting Nay	0
Those Absent and Not Voting	0

THE CHAIR:

The consent calendar has passed.

Senator Looney.

SENATOR LOONEY:

Thank you, Madam President.

Madam President, I believe the Clerk is in possession of Senate Agenda Number 6 for today's session.

**JOINT
STANDING
COMMITTEE
HEARINGS**

**EDUCATION
PART 6
1696 – 2025**

2012

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cip/cd/gbr EDUCATION COMMITTEE

March 5, 2012
12:00 P.M.

Thanks.

MARY LOFTUS LEVINE: Good night. Thanks for your patience.

SENATOR STILLMAN: Thank you.

VivianLea Solek. She's there. She heard me earlier, good. Orlando Rodriguez and then Anne Nutt.

Welcome.

VIVIANLEA SOLEK: Thank you.

Senator Stillman, Representative Fleischmann and members of the Education Committee, my name is VivianLea Solek, and I'm a curatorial & collections management consultant for Monroe, and I am here to speak in support of Raised Bill Number 5355.

Bill Number 5355 is a critical piece of legislation that will support Connecticut's numerous museums, libraries and archives. This proposed legislation is in keeping with similar legislation that has been passed in 37 states, including most recently Massachusetts and Vermont in New England. In fact, Connecticut and Rhode Island are the only two states in New England which do not currently have this type of legislation.

This act will enable museums, libraries, archives, historical societies and other cultural institutions - - which here after I'll just simply refer to as museums -- to resolve the problem of unclaimed and undocumented objects, which result when lenders and donors do not claim items loaned to museums for an exhibit or for identification or for evaluation or when a donor simply leaves the property on the institutions doorstep.

The past practice of permanent loans, which current best practices strongly discourage, has resulted in

numerous items being left in museums for generations for which the rightful owners of the property cannot be found. And I encourage you to look at the testimony of Barbara Austin from the Connecticut Historical Society and Ed Russo of the Wadsworth Antheneum, because they both give very good examples of objects that have been in their collections literally for generations but which they do not have a clear title to.

So much of this unclaimed and undocumented property -- property currently in museums has been held for decades before relationships between lenders, donors and museums were formalized with written loan agreements, temporary deposit receipts and other documentation now in use. Without legal title to unclaimed or undocumented objects, museums can only make limited use of these items while bearing all the cost and burdens of providing secure climate controlled storage, inventories and other associated recordkeeping and general care.

I have worked with several museums and historical societies in Connecticut, including the Norwalk, Derby and Monroe Historical Societies that have old loans and abandoned property in their collection and they are not unusual. HB Number 5355 will provide them the tools they need to address these orphaned collections.

I ask the committee to please support HB Number 5355 as an important step in strengthening the cultural community in Connecticut as they pursue best practices that are critical to the care of our cultural patrimony.

Thank you for your time and consideration.

SENATOR STILLMAN: Thank you and thank you for waiting all day to -- to now bring us to a new topic so I think it's waking us up a little bit.

Do you have any idea -- apparently, from you are sharing with us this is something that you believe museums and other libraries and maybe some other types of nonprofits that have, you know, items in their possession that they're concerned about. Do you have any idea if -- if this has any strong fiscal concerns?

VIVIANLEA SOLEK: Well, it is a fiscal concern for the institutions in that they have to provide care for these objects and, you know, maintain a standard of care for objects that they don't own. So there is that fiscal concern for the institutions, yes, this bill would have no cost impact on the state budget whatsoever.

SENATOR STILLMAN: Would this give an opportunity for those institutions that would now, if this bill moves forward and it's passed by the General Assembly and signed into law, would this give those institutions that have this sort of unclaimed property an opportunity to sell it to someone who might be interested, maybe in another part of the country or -- or the world and in one sense help them not only relieve the pressure on storage of some items but also might be a revenue generator for these organizations?

VIVIANLEA SOLEK: Yes. There's going to be several different classes of objects. There will be those objects that they wish to clear title and retain because they meet their mission and they want to exhibit them and do programs about them, what have you. There will be objects that they will want to what we call "deaccession." Once they have title, remove it from the collection because they don't meet the mission or the condition is so poor that its beyond conservation, so sometimes for objects, like that, destruction is really the last resort.

There may be things -- museums are held to an ethical standard that is above the law. These objects were given with the intent that they would be held in trust for the public we serve. So, if possible, you know,

we would encourage each other through our ethical standards to share that object with another institution. If there's not an institution where it's a good match or maybe they already have five of them and they don't need a sixth, then certainly to go through a public auction scenario and those proceeds come back to that institution.

I should note that per the guidelines of the American Association of Museum, The Association of Art Museum Directors, the American Association for State and Local History, all of our main national membership organizations, those proceeds are typically reserved for future acquisitions or direct care. They cannot go into general operating because if that were the case, and we've seen this played out with most recently the Brandeis University Art Museum, Randolph Macon Women's College in Virginia, where they were selling off collections to fund their general fund. Shame on them.

SENATOR STILLMAN: Well, in a sense, if they -- if -- even though they might be able to sell an object or item, whatever it is, and the proceeds have to go towards restoration or even just general management of -- of the care of the collection that in a sense relieves an aspect of their budget.

VIVIANLEA SOLEK: Yes, it does.

SENATOR STILLMAN: But it cannot go towards operating -- in other words it's not going to buy paper and office supplies and that kind of thing.

VIVIANLEA SOLEK: Exactly.

SENATOR STILLMAN: Okay, very good. Thank you very much.

VIVIANLEA SOLEK: Thank you.

SENATOR STILLMAN: Anyone else have questions?

Representative Fleischmann and then Representative Kokoruda.

REP. FLEISCHMANN: Just a very simple question. This seems like common sense and at the outside of your testimony you said Connecticut and Rhode Island lack this kind of chain of ownership type statute, whereas virtually every other state has it. Did I hear you correctly and if that's the case why are we this little sort of southern New England island with -- while everyone else has sort of moved along?

VIVIANLEA SOLEK: Good question. On a personal note, I can say because I've only been in the state six years. I was involved in Virginia's efforts to also get this legislation passed. I -- I don't know why, but that's why we're trying very hard to remedy that situation now. Massachusetts just passed it last year. It's not like they've had it for a very long time and so once we're successful then, in turn, we're going to turn to our neighbors to the east and try to help Rhode Island do likewise.

REP. FLEISCHMANN: Sounds like Southern New England is just the last in this category.

My other question, you know, you put forward all the good arguments as to why we would do this, is there anyone who would be opposed to this and, if so, what basis would they have for opposition?

VIVIANLEA SOLEK: I cannot imagine. Perhaps, someone that is not aware of, you know, the legalities of undocumented collections or old loans, but anybody who is aware of this -- I mean, everybody that we have spoken with -- I was on the committee that help draft this, everybody has been so thankful and so appreciative. You know, we all have things we have to deal with, but they know they can't under, you know, current statutes.

REP. FLEISCHMANN: Thank you.

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cip/cd/gbr EDUCATION COMMITTEE

March 5, 2012
12:00 P.M.

VIVIANLEA SOLEK: Thank you.

SENATOR STILLMAN: Thank you, sir.

Representative Kokoruda.

REP. KOKORUDA: Thank you.

Let me just asked you, I agree with Representative Fleischmann. It certainly sounds like common sense, but you -- you stated that right now with -- with anything that's loaned to museums and other organizations, we have written agreements. So we're really talking about objects that predated the procedures of today. So I was concerned about statutes of limitations or any future legal issues if -- if this was something that happened in the future.

VIVIANLEA SOLEK: Under the specifications of the bill, as it is -- as it is currently written there is language that says, lenders to museums today -- and from this point forward what -- it is enacted -- will be advised of this statute. And so it is mostly addressing those situations where, again, if you look at Barbara Austin's testimony, they have papers, a collection of papers that she references that has been in the collection of the Connecticut Historical Society, literally, for decades.

And, you know, as those lenders die or move away, if they don't let us know -- in the days before loan forms -- they literally fell off the radar. And it's not impossible to track them down and track the heirs with advent of the internet and a lot of the tools that you have, but sometimes, literally, the trail goes cold and so then you're -- you have these old loans that you can't do anything with.

So, yes, the two-part answer for the old loans this bill is going to be critical, but it also spells out

going forward what the requirements are to hopefully prevent this happening in the future.

REP. KOKORUDA: Thank you.

VIVIANLEA SOLEK: Thank you.

SENATOR STILLMAN: Thank you, Representative.

Anyone else?

Thank you very much.

VIVIANLEA SOLEK: And I thank you for your time, consideration and your endurance.

SENATOR STILLMAN: Orlando Rodriguez, followed by Anne Nutt and then Terry Bedard.

ORLANDO RODRIGUEZ: Senator Stillman, Representative Fleischmann, and distinguished members of the Education Committee.

I am a senior policy fellow with the Connecticut Voices for Children, and I'm here today to testify regarding Senate Bill Number 298, AN ACT CONCERNING THE MINIMUM BUDGET REQUIREMENT. We support a thorough analysis of the Minimum Budget Requirement in light of proposed hold harmless education funding and declining K-12 enrollments in Connecticut's public schools.

Eighty five percent of towns had a net declining K-12 residents between 2006/2007 and 2010/2011. Population projections from the Connecticut State Data Center indicate declining K-12 enrollments will continue throughout this decade. Consequently, we believe it is appropriate to allow towns to reduce local spending on education. However, decreases in education spending should be informed by detailed financial data and state education funds must not supplant local education funds.

**JOINT
STANDING
COMMITTEE
HEARINGS**

**EDUCATION
PART 7
2026 – 2365**

2012

p. 31 line 20



VivianLea Solek
Curatorial & Collections Management Consultant
580 Wheeler Road
Monroe, CT 06468
203-308-0279 cell
203-268-7940 home
vlsolek50@gmail.com

Testimony of VivianLea Solek

Concerning Raised Bill 5355, "AN ACT CONCERNING MUSEUM PROPERTY"

March 5, 2012

Senator Stillman, Representative Fleischmann, and members of the Education Committee, my name is VivianLea Solek, and I am a Curatorial & Collections Management Consultant from Monroe. I am here to speak in support of **Raised Bill 5355**.

Bill 5355 is a critical piece of legislation that will support Connecticut's numerous museums, libraries and archives. This proposed legislation is in keeping with similar legislation that has been passed in 37 states, including most recently Massachusetts and Vermont in New England. Connecticut and Rhode Island are the only two states in New England which do not currently have this type of legislation.

This act will enable museums, libraries, archives, historical societies and other cultural institutions (hereafter called Museums) to resolve the problem of unclaimed and undocumented objects which result when lenders and donors do not claim items loaned to museums for an exhibit, for identification or evaluation, or when a donor simply leaves the property "on the doorstep." The past practice of "permanent loans," which current best practices strongly discourage, has resulted in numerous items being left in Museums for generations for which the rightful owners of the property can not be found. Much of the unclaimed and undocumented property currently in Museums has been held for decades before relationships between lenders, donors and Museums were formalized with written loan agreements, temporary deposit receipts and other documentation now in use.

Without legal title to unclaimed or undocumented objects, Museums can only make limited use of these items while bearing all the costs and burdens of providing secure climate-controlled storage, inventories, record keeping, and general overhead.

I have worked with several museums and historical societies in Connecticut that have old loans and abandoned property in their collection. **HB 5355** will provide them the tools they need to address these orphaned collections.

I ask the Committee to please **SUPPORT HB 5355** as an important step in strengthening the cultural community in Connecticut as they pursue best practices that are critical to the care of our cultural patrimony.

Thank you for your time and consideration.

Sincerely,

VivianLea Solek

VivianLea Solek

Connecticut Historical Society
museum & library

One Elizabeth Street
Hartford, Connecticut
06105-2292
www.chs.org
(860) 236-5621
Fax: (860) 236-2664

2 March 2012

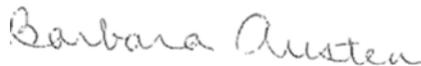
Dear Co-Chairmen Fleischmann and Stillman, and Members of the Education Committee:

As the Archivist at The Connecticut Historical Society, 1 Elizabeth Street in Hartford I am writing in support of HB 5355, An Act Concerning Museum Property. This act will give libraries, museums, historic sites and other heritage organizations in the state the necessary tool to obtain clear title to items that have been in their possession for years; it is an issue we all face.

For example, in 1844 Esther M. Chester deposited at the Connecticut Historical Society Burr family papers, dating from 1741-1796. There never was an official transfer of ownership so conceivably Ms. Chester's heirs could come and reclaim their property. For the past 168, the Society has expended staff resources and overhead to protect, catalog (in 2009) and care for that material. Other deposits or loans with no clear title and of more recent vintage also take up valuable resources. The owner moves and leaves no forwarding address, or a woman gets married or divorced and changes her name. We have no effective means to track that person down.

An Act Concerning Museum Property (HB 5355) would give the Connecticut Historical Society and other similar institutions (libraries, museums, archives, historic sites, etc.) in the state the mechanism for clearing title to deposits and other items left by donors or lenders and never retrieved. Items and collections without clear title drain limited resources and tie the staff's hands when they wish to transfer the material to a more appropriate repository or remove it from the collection. Museums take their responsibility to care for materials for the public good very seriously. HB 5355 would enable these institutions to carry out those responsibilities and make more collections publicly available.

Sincerely,



Barbara Austen
Archivist

Connecticut Historical Society
museum & library

One Elizabeth Street
Hartford, Connecticut
06105-2292

www.chs.org

(860) 236-5621
Fax: (860) 236-2664

Dear Co-Chairs Fleischmann and Stillman, and Members of the Education Committee,

As the Executive Director of the Connecticut Historical Society at 1 Elizabeth Street in Hartford, Connecticut, I am writing in support of HB 5355, An Act Concerning Museum Property. This act will provide Connecticut museums, libraries, and archives with an essential means to establish clear title to property in our possession; something that is strongly needed.

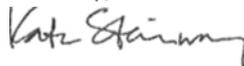
Organizations like mine are severely encumbered when donors leave collections without clear title. Our organization was founded in 1825, and there are collections that came to us without clear title from the 1840s onward. We cannot officially accept or reject these collections; therefore, they languish, unused and usually uncataloged, invisible to the public, yet taking up expensive space.

Even in recent decades, potential donors leave collections indicating that they want to be notified if the collection is not accepted into our permanent collection, or leave material on loan, and then prove impossible to reach after a decision has been made not to accept the material. Every effort is made to contact the donor, which is extremely time-consuming if the address, telephone number and email prove to be invalid. Letters are sent to the address left with the material and returned "undeliverable." Internet searches are made scouring for the name, and turn up nothing. So the material – sometimes very bulky – sits, in limbo, using our valuable and limited resources.

An Act Concerning Museum Property (HB 5355) will give libraries, museums, archives, and historic sites in the state – the stewards of our collective history – the mechanism for clearing title to deposits and other items left by donors or lenders and never retrieved. Items and collections without clear title drain limited resources and tie the staff's hands when it would be better to transfer the material to a more appropriate repository or remove it from the collection.

As a public, nonprofit institution charged with collecting our state's history, we take our responsibility to care for materials for the public good very seriously. HB 5355 would enable us to carry out this responsibility effectively and make more collections available to the public.

Sincerely,



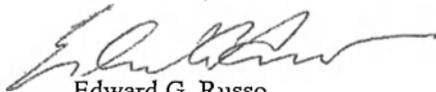
Kate Steinway
Executive Director

In support of the Proposed Connecticut Museum Property Act (HB 5355)

I urge our State legislators to support this bill to enable Connecticut's museums, libraries, archives, and other collection-based non-profit cultural institutions to better serve the public interest and to better care for their collections.

As the oldest public art museum in the United States, the Wadsworth Atheneum (founded in 1842) houses approximately 50,000 works of art and artifacts. Among these are large numbers of objects once deposited with the museum as loans or simply found among the museum's collections without clear indications as to their source. The museum is bound by commonly accepted ethical, legal, and practical standards to afford these objects the same level of care regardless of whether the museum maintains ownership or not. Unfortunately, some of these objects are not suitable for the museum's collection or would better serve the interests of other museums. However, without a clear determination of ownership, no such actions can be undertaken despite the potential benefit to the public interest or the interest of the museums.

Caring for objects held by a museum involves an ongoing "investment" in space allocation, staff time, record maintenance, insurance, etc. By enacting this legislation and empowering the State's museums to resolve the ownership status of these orphaned objects, the State legislature will ensure that these non-profit institutions make more efficient use of their limited resources. And, the museum-going tax-paying public is better served by more efficiently run institutions producing more thorough interpretations of collections for their visitors.



Edward G. Russo
Head Registrar
Wadsworth Atheneum Museum of Art
Hartford, CT

CONNECTICUT STATE LIBRARY



Testimony of
Kendall F. Wiggin, State Librarian

Concerning H.B. 5355
"AN ACT CONCERNING MUSEUM PROPERTY"

March 5, 2012

I wish to speak in favor of H.B. 5355. I would also like to thank the Committee for raising this bill. More than a year ago I was approached by a group of museum professionals who sought to have Connecticut join the 37 other states that have enacted similar legislation to this proposed act. I know from personal experience the problems that libraries and museums face when trying to establish clear title to unclaimed or undocumented items in their collections. I worked in a large public library that had a closet full of items that had been collected by a State Department official while in Africa in the early 1900s, including a collection of elephant tusks. He had displayed them at the library and some 30 years later they were still there despite numerous attempts to locate him. Because the state I was working in had legislation similar to H.B. 5355 we were able to establish clear title and dispose of the collection to the library's benefit. This legislation provides museums, libraries, archives, historical societies and other cultural institutions with a legal remedy for establishing clear title to unclaimed or undocumented objects in their possession. Without clear legal title, institutions defined in the act can only make limited use of these items and yet they bear all the costs and burdens of providing storage, record keeping, climate control, security, inventory, insurance and general overhead, whether or not they want to have them in their collection at all. No institution wants to spend scarce resources conserving, for example, a damaged painting when the rightful owner may someday claim it.

This legislation is modeled on legislation that has proven effective in the states that have enacted it. This proposal has been vetted by several of our major cultural institutions and they have told me that this will be of great benefit to them.

If passed, the State Library will play a limited, but important role insuring that there are uniform procedures for record keeping and public notification.

I urge you to move this legislation forward.

231 Capitol Avenue ~ Hartford, Connecticut 06106
TEL: (860) 757-6510 ~ FAX: (860) 757-6503
www.cslib.org