

CHAPTER 2021-71

Committee Substitute for House Bill No. 909

An act relating to cultural and historical programs; creating s. 15.0455, F.S.; designating the Museum of Florida History as the official state history museum; amending s. 15.18, F.S.; providing that the Secretary of State shall be known as “Florida’s Chief Arts and Culture Officer”; amending s. 20.10, F.S.; renaming the Division of Cultural Affairs as the Division of Arts and Culture; amending ss. 265.281, 265.283, 265.286, 265.2865, and 265.701, F.S.; conforming provisions and cross-references to changes made by the act; repealing s. 265.7025, F.S., relating to definitions relating to historic programs; amending s. 265.703, F.S.; conforming provisions to changes made by the act; repealing ss. 265.704, 265.705, 265.706, and 265.709, F.S., relating to historical museums and powers and duties of the Division of Cultural Affairs, state policy relative to historical properties, objects of historical or archaeological value, and publications, respectively; amending s. 267.021, F.S.; defining the term “historical museum”; amending s. 267.071, F.S.; revising the duties of the Division of Historical Resources; transferring, renumbering, and amending s. 265.707, F.S.; transferring certain responsibilities from the Division of Cultural Affairs to the Division of Historical Resources; revising provisions relating to the Museum of Florida History museum store, the establishment and operation of a certain nonprofit organization or association, and the deposit of certain funds; transferring, renumbering, and amending s. 265.565, F.S.; defining the term “abandoned property”; removing the requirement that a museum inform a lender of certain provisions in certain circumstances; revising publication requirements for a termination of loan notice; providing for the disposition of abandoned property; amending s. 267.115, F.S.; revising responsibilities of the Division of Historical Resources relating to objects of historical or archaeological value; transferring and renumbering ss. 267.16 and 267.161, F.S.; amending ss. 258.081, 468.401, and 553.902, F.S.; conforming provisions and cross-references to changes made by the act; amending chapter 2020-88, Laws of Florida; conforming a provision to changes made by the act; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 15.0455, Florida Statutes, is created to read:

15.0455 Official state history museum.—The Museum of Florida History, located in Tallahassee, is hereby designated as the official state history museum.

Section 2. Section 15.18, Florida Statutes, is amended to read:

15.18 International and cultural relations.—The Divisions of ~~Arts and Culture~~ ~~Cultural Affairs~~, Historical Resources, and Library and Information

Services of the Department of State promote programs having substantial cultural, artistic, and indirect economic significance that emphasize American creativity. The Secretary of State, as the head administrator of these divisions, shall hereafter be known as “Florida’s Chief Arts and Culture Cultural Officer.” As this officer, the Secretary of State is encouraged to initiate and develop relationships between the state and foreign cultural officers, their representatives, and other foreign governmental officials in order to promote Florida as the center of American creativity. The Secretary of State shall coordinate international activities pursuant to this section with Enterprise Florida, Inc., and any other organization the secretary deems appropriate. For the accomplishment of this purpose, the Secretary of State shall have the power and authority to:

- (1) Disseminate any information pertaining to the State of Florida which promotes the state’s cultural assets.
- (2) Plan and carry out activities designed to cause improved cultural and governmental programs and exchanges with foreign countries.
- (3) Plan and implement cultural and social activities for visiting foreign heads of state, diplomats, dignitaries, and exchange groups.
- (4) Encourage and cooperate with other public and private organizations or groups in their efforts to promote the cultural advantages of Florida.
- (5) Serve as the liaison with all foreign consular and ambassadorial corps, as well as international organizations, that are consistent with the purposes of this section.
- (6) Provide, arrange, and make expenditures for the achievement of any or all of the purposes specified in this section.

Section 3. Paragraph (e) of subsection (2) of section 20.10, Florida Statutes, is amended to read:

20.10 Department of State.—There is created a Department of State.

(2) The following divisions of the Department of State are established:

(e) Division of Arts and Culture Cultural Affairs.

Section 4. Section 265.281, Florida Statutes, is amended to read:

265.281 Florida Arts and Culture Act; short title.—~~Sections 265.281-265.703~~ Sections 265.281-265.709 may be cited as the “Florida Arts and Culture Act.”

Section 5. Section 265.283, Florida Statutes, is amended to read:

265.283 Definitions.—The following definitions shall apply to ss. 265.281-265.703 ~~ss. 265.281-265.709~~:

(1)(7) “Arts and cultural disciplines” include, but are not limited to, music, dance, theatre, creative writing, literature, architecture, painting, sculpture, folk arts, photography, crafts, media arts, visual arts, programs of museums, and other such allied, major art forms.

(2)(13) “Arts in education grants” means grants used to cultivate the learning and artistic development of all students and teachers by promoting, encouraging, and supporting arts and culture as an integral part of education and lifelong learning for residents and visitors.

(3)(1) “Council” means the Florida Council on Arts and Culture.

(4)(14) “Cultural support grants” means grants that provide support for general programs and specific cultural projects.

(5)(17) “Culture Builds Florida grants” means grants used for the purpose of connecting the arts to key areas of the division’s long-term strategic plan.

(6)(2) “Department” means the Department of State.

(7)(3) “Director” means the Director of the Division of Arts and Culture Cultural Affairs of the Department of State.

(8)(4) “Division” means the Division of Arts and Culture Cultural Affairs of the Department of State.

(9) “Folklife” means the traditional expressive culture shared within the various groups in Florida: familial, ethnic, occupational, religious, and regional. Expressive culture includes a wide range of creative and symbolic forms such as custom, belief, technical skill, language, literature, art, architecture, music, play, dance, drama, ritual, pageantry, and handicraft, which forms are generally learned orally, by imitation, or in performance and are maintained or perpetuated without formal instruction or institutional direction.

(10)(9) “Historical museum” means a department or agency of state or local government or a public or private nonprofit organization located in Florida and operating on a permanent basis for the primary purpose of sponsoring, producing, and exhibiting educational programs that are related to the historical resources of Florida.

(11)(8) “Local arts agency” means a public or private nonprofit organization located in Florida and operating on a permanent basis for the primary purpose of strengthening, supporting, and stabilizing the activities of one or more county art and cultural constituencies.

(12)(5) “Panel” means a grant review panel.

(13)(10) “Science museum” means a public or private nonprofit organization located in Florida and operating on a permanent basis for the primary

purpose of sponsoring, producing, and exhibiting programs for the observation and study of various types of natural science and science technology.

~~(14)~~(6) “Secretary” means the Secretary of State.

~~(15)~~(12) “State service organization” means a public or private nonprofit organization located in Florida operating on a permanent basis for the primary purpose of implementing programs that have cultural significance and that emphasize American creativity and the maintenance and encouragement of professional excellence.

~~(16)~~(15) “State touring program grants” means grants used to provide performances, activities, and exhibitions by Florida artists to communities.

~~(17)~~(16) “Underserved arts community assistance program grants” means grants used by qualified organizations under the Rural Economic Development Initiative, pursuant to ss. 288.0656 and 288.06561, for the purpose of economic and organizational development for underserved cultural organizations.

~~(18)~~(11) “Youth and children’s museum” means a public or private nonprofit organization located in Florida and operating on a permanent basis for the primary purpose of sponsoring, producing, and exhibiting multidisciplinary and participatory programs for visitors who are 6 months to 15 years old, and their families, teachers, and caregivers.

Section 6. Paragraph (a) of subsection (5) of section 265.286, Florida Statutes, is amended to read:

265.286 Art and cultural grants.—

(5) The division shall fund:

(a) Grants for general program support for science museums, youth and children’s museums, historical museums, local arts agencies, state service organizations, and organizations that have cultural program activities in any of the art and cultural disciplines defined in s. 265.283 ~~s. 265.283~~(7).

Section 7. Subsection (6) of section 265.2865, Florida Statutes, is amended to read:

265.2865 Florida Artists Hall of Fame.—

(6) The Division of Arts and Culture ~~Cultural Affairs~~ of the Department of State shall adopt rules necessary to carry out the purposes of this section, including, but not limited to, procedures for accepting nominations to, making recommendations for, selecting members of the Florida Artists Hall of Fame, and providing travel expenses for such recipients. Notwithstanding ~~the provisions of s. 112.061~~, the Secretary of State may approve first-class travel accommodations for recipients of the Florida Artists Hall of Fame award and their representatives for health or security purposes.

Section 8. Subsections (1) and (5) of section 265.701, Florida Statutes, are amended to read:

265.701 Cultural facilities; grants for acquisition, renovation, or construction; funding; approval; allocation.—

(1) The Division of Arts and Culture ~~Cultural Affairs~~ may accept and administer moneys appropriated to it for providing grants to counties, municipalities, and qualifying nonprofit corporations for the acquisition, renovation, or construction of cultural facilities.

(5) The Division of Arts and Culture ~~Cultural Affairs~~ shall adopt rules prescribing the criteria to be applied by the Florida Council on Arts and Culture in recommending applications for the award of grants and rules providing for the administration of ~~the other provisions of~~ this section.

Section 9. Section 265.7025, Florida Statutes, is repealed.

Section 10. Subsection (3) of section 265.703, Florida Statutes, is amended to read:

265.703 Citizen support organizations; use of state administrative services and property; audit.—

(3) ANNUAL AUDIT.—The citizen support organization shall provide for an annual financial audit in accordance with s. 215.981. ~~Information of the Museum of Florida History citizen support organization which is confidential and exempt pursuant to s. 267.17 shall retain its confidential and exempt status.~~

Section 11. Sections 265.704, 265.705, 265.706, and 265.709, Florida Statutes, are repealed.

Section 12. Section 267.021, Florida Statutes, is amended to read:

267.021 Definitions.—For the purpose of this act, the term:

~~(1)~~(2) “Agency” means any state, county, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law.

~~(2)~~(4) “Division” means the Division of Historical Resources of the Department of State.

~~(3)~~(7) “Florida history museum” means a public or private nonprofit institution which is established permanently in this state for the purpose of promoting and encouraging knowledge and appreciation of Florida history through the collection, preservation, exhibition, and interpretation of artifacts and other historical properties related to Florida history and the primary role of which is to collect and care for artifacts and other objects of

intrinsic historical or archaeological value and exhibit them regularly through a facility or facilities owned or operated by the institution.

~~(4)~~⁽³⁾ “Historic property” or “historic resource” means any prehistoric or historic district, site, building, object, or other real or personal property of historical, architectural, or archaeological value, and folklife resources. These properties or resources may include, but are not limited to, monuments, memorials, Indian habitations, ceremonial sites, abandoned settlements, sunken or abandoned ships, engineering works, treasure trove, artifacts, or other objects with intrinsic historical or archaeological value, or any part thereof, relating to the history, government, and culture of the state.

(5) “Historical museum” means a department or agency of state or local government or a public or private nonprofit organization located in Florida and operating on a permanent basis for the primary purpose of sponsoring, producing, and exhibiting educational programs that are related to the historical resources of Florida.

~~(6)~~⁽⁵⁾ “National Register of Historic Places” means the list of historic properties significant in American history, architecture, archaeology, engineering, and culture, maintained by the Secretary of the Interior, as established by the National Historic Preservation Act of 1966, as amended.

~~(6) “Folklife” means the traditional expressive culture shared within the various groups in Florida: familial, ethnic, occupational, religious, and regional. Expressive culture includes a wide range of creative and symbolic forms such as custom, belief, technical skill, language, literature, art, architecture, music, play, dance, drama, ritual, pageantry, and handicraft, which forms are generally learned orally, by imitation, or in performance and are maintained or perpetuated without formal instruction or institutional direction.~~

~~(7)~~⁽⁸⁾ “Official Florida Historical Marker” means any marker, plaque, or similar device awarded, approved, or administered by the Division of Historical Resources for the purpose of recognizing and informing the general public about historic properties, persons, events, and other topics relating to the history and culture of the state.

~~(8)~~⁽⁴⁾ “Preservation” or “historic preservation” means the identification, evaluation, recordation, documentation, analysis, recovery, interpretation, curation, acquisition, protection, management, rehabilitation, restoration, stabilization, maintenance, or reconstruction of historic properties.

Section 13. Subsection (2) of section 267.071, Florida Statutes, is amended, and subsection (4) is added to that section, to read:

267.071 Historical museums.—It is the duty of the division to:

(2) Encourage, promote, maintain, and operate historical museums, including the Museum of Florida History, ~~but not limited to~~, mobile museums, and other Florida history junior museums.

(4)(a) Establish professional standards for the preservation, exclusive of acquisition, of each of the collections under state ownership or control.

(b) Take such other actions as are necessary or appropriate to locate, acquire, preserve, operate, interpret, and promote the location, acquisition, protection, preservation, operation, and interpretation of historical artifacts and resources to foster an appreciation of Florida history and culture.

Section 14. Section 265.707, Florida Statutes, is transferred, renumbered as section 267.0721, Florida Statutes, and amended to read:

267.0721 ~~265.707~~ Museum of Florida History and programs; other historical museums.—

(1) The division is authorized to operate the Museum of Florida History and other historical museums.

(2) The division shall establish and administer a museum store ~~for in~~ the Museum of Florida History to provide information and materials relating to Florida history, museum exhibits, collections, and programs to the public and may operate additional stores associated with the museum. The stores ~~store~~ may produce, acquire, and sell craft products, clearly marked replicas and reproductions of artifacts, documents, and other merchandise relating to historical and cultural resources and may make a reasonable charge for such merchandise. All proceeds received from sales must be deposited into the Grants and Donations Trust Fund, or funds in excess of the amount required to pay employees involved in the direct management of the museum store may be deposited into a bank account of a the citizen support organization created pursuant to s. 267.17, or created before July 1, 2021, pursuant to s. 265.703, and may be used only to support operations of the museum stores and the programs of the Museum of Florida History or other museums operated by the division. The museum stores ~~store~~ may enter into agreements and accept credit card ~~credit-card~~ payments as compensation for goods and products sold. The division may establish accounts in credit card ~~credit-card~~ banks for the deposit of credit card ~~credit-card~~ sales invoices and to pay discounts and service charges in connection with the use of credit cards.

(3) The division shall support the establishment and operation of a nonprofit organization or association established pursuant to s. 267.17, or established before July 1, 2021, pursuant to s. 265.703, to promote and encourage knowledge and appreciation of Florida history and the programs of the Museum of Florida History and other museums operated by the division and to cooperate with historical societies and other organizations to provide funding and promotional support for the programs of the museum. Such organization or association may, with the consent of the division,

operate the museum store or conduct special events and programs in the museum. All proceeds must be used to support the programs of the Museum of Florida History and other museums operated by the division.

(4) The division shall deposit grant funding, gifts, and donations for the purpose of assisting the Museum of Florida History and its programs in the Grants and Donations Trust Fund to be used exclusively for the benefit of programs of the museum and in a manner consistent with any terms or conditions agreed to by the division in accepting such grants, gifts, and donations.

Section 15. Section 265.565, Florida Statutes, is transferred, renumbered as section 267.0723, Florida Statutes, and paragraphs (a) through (f) of subsection (2) are redesignated as paragraphs (b) through (g), respectively, paragraphs (a) and (b) of subsection (3) and subsections (5), (6), and (12) are amended, a new paragraph (a) is added to subsection (2), and subsection (13) is added to that section, to read:

267.0723 ~~265.565~~ Property loaned to or abandoned at museums; obligations to lenders; notice; loan termination; acquisition of title; liens; conservation or disposal.—

(2) DEFINITIONS.—

(a) “Abandoned property” means property left at or delivered to a museum with no loan, deed of gift, or donation paperwork.

(3) OBLIGATIONS OF MUSEUMS TO LENDERS.—

(a) For property loaned to a museum after the effective date of this act, the museum shall:

1. Make and retain a written record containing, at a minimum, the lender’s name, address, and telephone number, a description of the property loaned in sufficient detail for clear identification, including a description of the general condition of the property at the time of the loan, the beginning date of the loan, and the expiration date of the loan.

2. Provide the lender with a signed receipt or loan agreement containing, at a minimum, the record set forth in subparagraph 1.

~~3. Inform the lender of the existence of the provisions of this act and~~ Provide the lender with a copy of ~~the provisions of this act~~ upon the lender’s request.

(b) Regardless of the date of a loan of property, the museum shall:

1. Update its records if a lender informs the museum of a change of address or change in ownership of property loaned, or if the lender and museum negotiate a change in the duration of the loan.

2. ~~Inform the lender of the existence of the provisions of this act~~ When renewing or updating the records of an existing loan, and provide the lender with a copy of ~~the provisions of this act~~ upon the lender's request.

(5) TERMINATION OF LOANS.—

(a) A museum may terminate a loan for unclaimed property in its possession by making a good faith and reasonable search for the identity and last known address of the lender from the museum records and other records reasonably available to museum staff. If the museum is able to identify the lender and the lender's last known address, the museum shall give notice to the lender that the loan is terminated pursuant to paragraph (b). If the identity or last known address of the lender remains unknown after a good faith and reasonable search, the museum shall give notice by publication pursuant to paragraph (c).

(b) A museum shall provide notice of termination of a loan of unclaimed property by sending a letter by certified mail to the lender at the lender's last known address giving notice of termination of the loan, which shall include the date of notice of termination, the name of the lender, a description of the property sufficient in detail for ready identification, the beginning date of the loan, if known, the termination date of the loan, if applicable, the name and address of the appropriate museum official to be contacted regarding the loan, and a statement that within 90 days of the date of the notice of termination, the lender is required to remove the property from the museum or contact the designated official in the museum to preserve the lender's interests in the property. Failure to provide such notice will result in the loss of all rights in the property pursuant to subsection (6).

(c) If the museum is unable to identify sufficient information to send notice pursuant to paragraph (b), or if a signed return receipt of a notice sent by certified mail pursuant to paragraph (b) is not received by the museum within 30 days after the notice is mailed, the museum shall publish the notice of termination of loan containing all the information available to the museum provided in paragraph (b) on its website and at least twice, 60 or more days apart, in a publication of general physical or online circulation in the county in which the museum is located and the county of the lender's last known address, if known.

(6) MUSEUM GAINING TITLE TO LOANED PROPERTY; CONDITIONS.—As of the effective date of this act, a museum acquires title to unclaimed property under any of the following circumstances:

(a) For property for which a museum provides notice to a lender in accordance with paragraph (5)(b) and a signed receipt is received, if the lender of the property does not contact the museum within 90 days after the date notice was received.

(b) For property for which notice by publication is made pursuant to paragraph (5)(c), if the lender or anyone claiming a legal interest in the

property does not contact the museum within 90 days after the date of the second publication.

(12) LIABILITY.—If a museum applies conservation measures to or disposes of a property pursuant to subsection (11), the museum shall have a lien on the property and on the proceeds from any disposition thereof for the costs incurred by the museum, and the museum shall not be liable for injury to or loss of the property if:

(a) The museum had a reasonable belief at the time the action was taken that the action was necessary to protect the property on loan or other property in the custody of the museum, or that the property on loan constituted a hazard to the health and safety of the public or the museum's staff.

(b) The museum exercised reasonable care in the choice and application of conservation measures.

(13) DISPOSITION OF ABANDONED PROPERTY.—A museum may keep, transfer, sell, or dispose of abandoned property.

Section 16. Subsection (1) of section 267.115, Florida Statutes, is amended to read:

267.115 Objects of historical or archaeological value.—The division shall acquire, maintain, preserve, interpret, exhibit, and make available for study objects which have intrinsic historical or archaeological value relating to the history, government, or culture of the state. Such objects may include tangible personal property of historical or archaeological value. Objects acquired under this section belong to the state, and title to such objects is vested in the division.

(1) Notwithstanding s. 273.02, the division shall maintain an adequate record of all objects in its custody which have a historical or archaeological value. Once each year, on July 1 or as soon thereafter as practicable, the division shall take a complete inventory of all such objects in its custody the value or cost of which is ~~\$1000~~ \$500 or more and a sample inventory of such objects the value or cost of which is less than ~~\$1000~~ \$500. Each inventory shall be compared with the property record, and all discrepancies shall be traced and reconciled. Objects of historical or archaeological value are not required to be identified by marking or other physical alteration of the objects.

Section 17. Section 267.16, Florida Statutes, is transferred and renumbered as section 265.802, Florida Statutes.

Section 18. Section 267.161, Florida Statutes, is transferred and renumbered as section 265.803, Florida Statutes.

Section 19. Section 258.081, Florida Statutes, is amended to read:

258.081 Stephen Foster State Folk Culture Center.—The division shall maintain and operate the Stephen Foster State Folk Culture Center facility in such manner that the performing arts component of the Florida Folklife Programs provided in s. 265.802 ~~s. 267.16~~ shall have priority use of the facility.

Section 20. Subsection (4) of section 468.401, Florida Statutes, is amended to read:

468.401 Regulation of talent agencies; definitions.—As used in this part or any rule adopted pursuant hereto:

(4) “Engagement” means any employment or placement of an artist, where the artist performs in his or her artistic capacity. However, the term “engagement” shall not apply to procuring opera, music, theater, or dance engagements for any organization defined in s. 501(c)(3) of the Internal Revenue Code or any nonprofit Florida arts organization that has received a grant from the Division of Arts and Culture ~~Cultural Affairs~~ of the Department of State or has participated in the state touring program of the Division of Arts and Culture ~~Cultural Affairs~~.

Section 21. Paragraph (d) of subsection (2) of section 553.902, Florida Statutes, is amended to read:

553.902 Definitions.—As used in this part, the term:

(2) “Exempted building” means:

(d) A historical building as defined ~~described~~ in s. 267.021 ~~s. 267.021(3)~~.

The Florida Building Commission may recommend to the Legislature additional types of buildings which should be exempted from compliance with the Florida Building Code-Energy Conservation.

Section 22. Subsection (1) of section 2 of chapter 2020-88, Laws of Florida, is amended to read:

Section 2. The Secretary of State is directed to:

(1) In coordination with the Division of Historical Resources ~~Cultural Affairs~~ of the Department of State, determine how the Museum of Florida History and other state museums will promote the history of the 1920 Ocoee Election Day Riots through exhibits and educational programs.

Section 23. This act shall take effect July 1, 2021.

Approved by the Governor June 4, 2021.

Filed in Office Secretary of State June 4, 2021.