

HOUSE BILL NO. 231

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-THIRD LEGISLATURE - SECOND SESSION

BY REPRESENTATIVES CARRICK, Rauscher, Mina, Himschoot

Introduced: 1/16/24

Referred: Judiciary, State Affairs

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to notice requirements allowing museums to acquire title to
2 undocumented property."

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 * **Section 1.** AS 14.57.210(b) is amended to read:

5 (b) To acquire title under (a) of this section, the museum shall publish a notice
6 **for at least four consecutive weeks on a dedicated Internet webpage maintained**
7 **by the museum responsible for the undocumented property and** at least once a
8 week for four consecutive weeks in **either** a newspaper of general circulation in the
9 judicial district where the museum is located **or on a social media account**
10 **maintained by the museum.** The notice must include

- 11 (1) a brief and general description of the property;
- 12 (2) the date or approximate date, if known, of the acquisition of the
13 property by the museum;
- 14 (3) the name, address, **electronic mail address,** and telephone number

1 of the museum representative to contact for more information or to make a claim of
2 ownership;

3 (4) the initial date of publication on the Internet webpage [DATE
4 OF THE LAST PUBLICATION OF THE NOTICE UNDER THIS SUBSECTION];
5 and

6 (5) a statement that the museum will acquire title to the property if a
7 valid claim of an owner to the property is not received by the museum within 45 days
8 from the date of the last publication of the notice under this subsection.

Permanent Loan

Lender Gives Loan Without End Date

Museum Attempts to Create New Agreement with Lender

Museum Mails Notice of Termination under 305B.6

Lender Receives Notice via Certified Mail

Return Receipt not received within 30 days

Museum Publishes Notice of Termination under 305B.6

Lender Does not respond with Notice of Intent to Preserve an Interest in Property under 305B.8

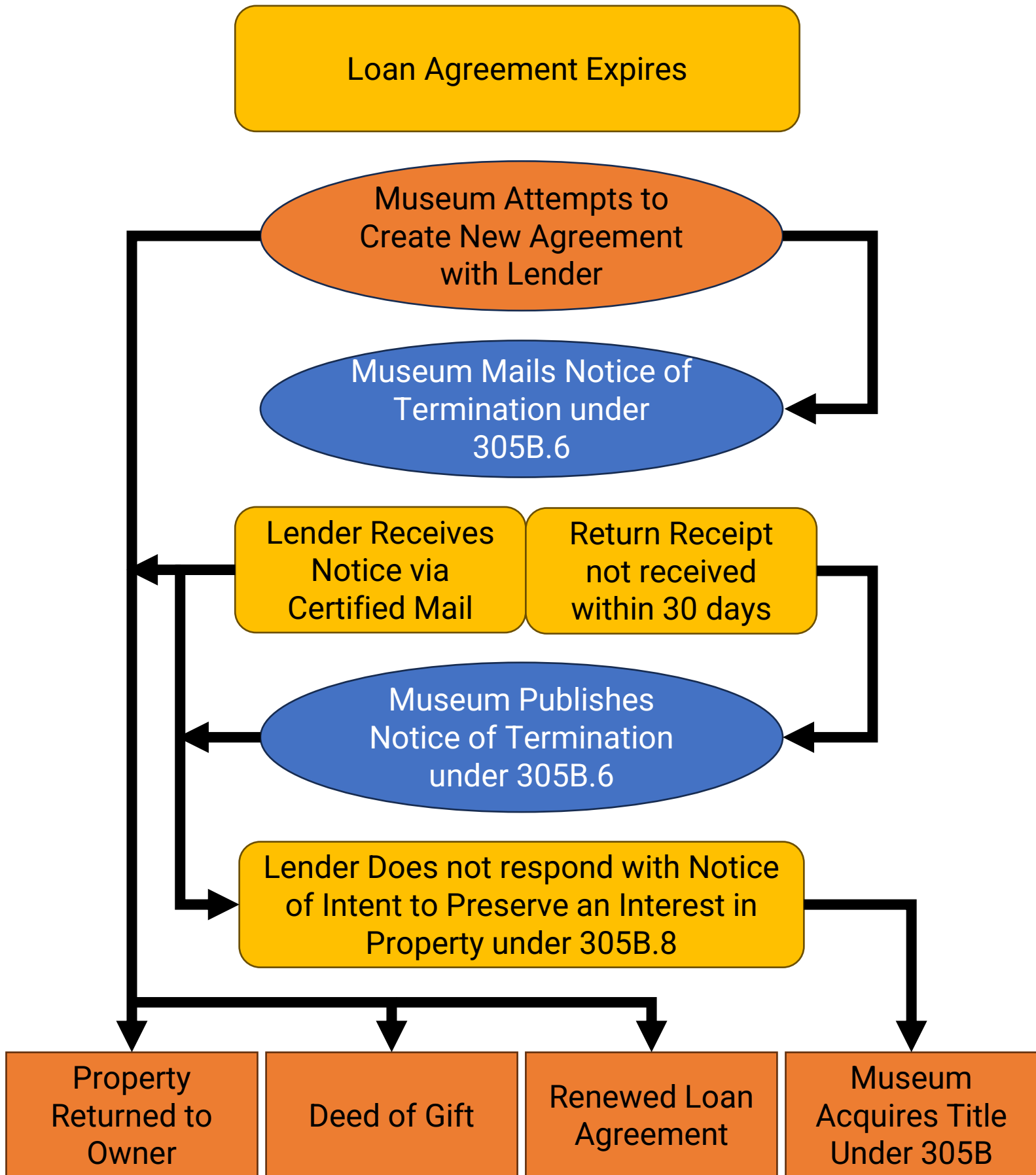
Property Returned to Owner

Deed of Gift

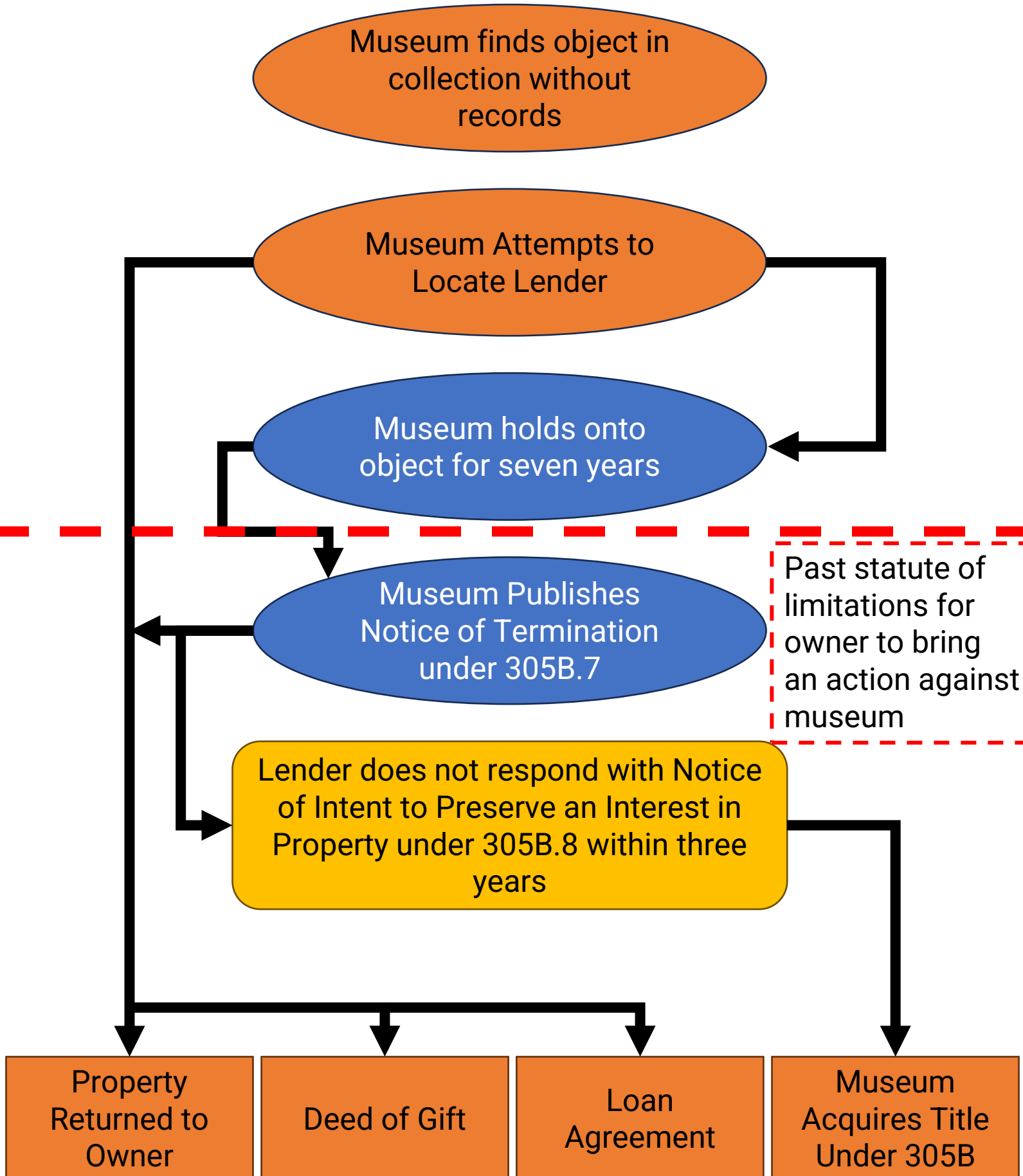
Loan Agreement with term

Museum Acquires Title Under 305B

Expired Loan



Undocumented Property



PART I PURPOSE AND SHORT TITLE

305B.0 Legislative Purpose

The purpose of this chapter is to establish the ownership of loaned cultural property that has been abandoned by the lender, to allow museums to conserve loaned property under certain conditions, and to establish title to undocumented objects found in museum collections.

The people of Iowa share a deep interest in preserving, safeguarding, and promoting objects of scientific, historic, artistic, and cultural significance, and ensuring their accessibility to the public for educational and enriching purposes. Museums play a vital role in fulfilling this interest by receiving loaned property to enhance their educational programming, fostering a greater understanding and appreciation of the state's heritage. Loans of property to museums for study or display are essential to promote and encourage the teaching of state and local history.

Museums may adopt their own agreements with lenders to resolve disputes or terminate loans. This chapter does not prevent museums from establishing title under other laws in the State of Iowa.

This chapter shall not apply to objects described in Part I of Article 7 of Chapter 12 of Title 44, relating to American Indian human remains and burial objects held by museums, nor stolen property.

By enacting this chapter, the State of Iowa aims to promote cultural enrichment, protect valuable heritage, and foster a cooperative and sustainable relationship between lenders and museums in the preservation and exhibition of cultural property for the benefit of its citizens.

305B.1 Short Title

This chapter may be cited as the “Museum Property Act”.

PART II DEFINITIONS AND BASIC NOTICE

305B.2 Definitions.

As used in this chapter, unless the context requires otherwise:

1. “Claimant” means a person who files a notice of intent to preserve an interest in property on loan to a museum as provided in section 305B.8.
2. “Claimant’s address” means the most recent address as shown on a notice of intent to preserve an interest in property on loan to a museum, or notice of change of address, which notice is on file with the museum.
3. “Lender” means a person whose name appears on the records of the museum as the person legally entitled to property held or owing by the museum.
4. “Lender’s address” means the most recent address as shown on the museum’s records pertaining to the property on loan from the lender.
5. “Loaned property” and “property on loan” means a deposit of property by a lender for a specified period of time not accompanied by a transfer of title to the property.

6. "Museum" means an institution located in Iowa operated by a nonprofit corporation or a public agency, primarily for educational, scientific, historic preservation, or aesthetic purposes, which owns, borrows, cares for, exhibits, studies, archives, or catalogs property. "Museum" includes, but is not limited to, historical societies, historic sites or landmarks, parks, monuments, and libraries.

7. "Property" means a tangible object, animate or inanimate, under a museum's care which has intrinsic historic, artistic, scientific, or cultural value.

8. "Undocumented property" means property in the possession of a museum for which the museum cannot determine by reference to the museum's records the property's owner. This includes property commonly known in the field as "Found in Collections" or "FIC."

9. "Indefinite loans" include property on loan to a museum for an undefined, indefinite, or permanent period.

305B.3 Basic notice requirement.

1. Contents. In addition to any other information prescribed for a particular notice, all notices given pursuant to this chapter shall contain the following information:

- a. Lender's name, or claimant's name, as appropriate.
- b. Lender's last known address, or claimant's last known address, as appropriate.
- c. Brief description of the property on loan.
- d. Date of the loan, if known.
- e. Name of the museum.
- f. Name, address, and telephone number of the appropriate person or office to be contacted regarding the property.

2. Mailed notice. All notices given by a museum pursuant to this chapter shall be mailed to the lender's, and any claimant's, last known address by restricted certified mail, as defined in section 618.15, delivered to addressee only and with return receipt requested. Notice is deemed given if the museum receives proof of receipt within thirty days of mailing the notice.

3. Published notice. If the museum does not know the identity of the lender, or does not have an address for the lender, or if proof of receipt is not received by the museum within thirty days of mailing a notice under subsection 2, notice is deemed given if the museum publishes notice at least once a week for two consecutive weeks in a newspaper of general circulation as defined in Iowa Code 618.3 in both of the following:

- a. The county in which the museum is located.
- b. The county of the lender's or claimant's address, if any.

PART III LOANED PROPERTY

305B.4 Conservation or disposal of loaned property.

1. Unless there is a written loan agreement to the contrary, a museum may apply conservation measures to or dispose of property on loan to the museum without the lender's or claimant's permission, or formal notice, if immediate action is required to protect the property on loan or other property in the custody of the museum or if the property on loan is a hazard to the health and safety of the public or the museum staff and if any of the following apply:

- a. The museum is unable to reach the lender or claimant at the lender's or claimant's last known address or phone number if action is to be taken within more than three days but less than one week from the time the museum determined action was necessary.
- b. The museum is unable to reach the lender or claimant at the lender's or claimant's last known phone number prior to taking action if the action is to be taken within three days or less from the time the museum determined action was necessary.
- c. The lender or claimant does not respond or will not agree to the protective measures the museum recommends, yet is unwilling or unable to terminate the loan and retrieve the property.

2. If a museum applies conservation measures to or disposes of property under this section, or with the agreement of the lender and claimants unless the agreement provides otherwise, the museum:

- a. Has a lien on the property and on the proceeds of any disposition of the property for the costs incurred by the museum.
- b. Is not liable for injury to or loss of the property if the museum:
 - (1) 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 was a hazard to the health and safety of the public or the museum staff.
 - (2) Exercised reasonable care in the choice and application of conservation measures.

305B.5 Notice of injury or loss.

A museum shall give a lender or claimant prompt notice of any known injury to or loss of property on loan. A model form for the notice of injury or loss to loaned property is included in the appendix. The notice shall be mailed to the lender's or claimant's last known address in event of injury or loss of property on loan to the museum. Published notice of injury or loss of undocumented property shall not be required.

305B.6 Notice of intent to terminate loan — acquiring title to loaned property.

1. A museum may acquire title to loaned property pursuant to this section. A museum may give notice of termination of a loan of property at any time if either of the following apply:

- a. The property was loaned to the museum for an indefinite term.

- b. The property was loaned to the museum for a specified term, and that term has expired.
2. If the lender or claimant does not respond to the notice of termination provided under subsection 1 within 120 days by filing a notice of intent to preserve an interest in property on loan, the museum acquires title to the property.
3. A notice of intent to terminate a loan must include a statement containing substantially the following information:

The records of (name of museum) indicate that you have property on loan to it. The institution wishes to terminate the loan. You must contact the institution, establish your ownership of the property pursuant to section 305B.8, and make arrangements to collect the property. If you fail to do so promptly, you will be considered to have donated the property to the institution.

4. A model form of notice of intent to terminate loan is included in the appendix to this chapter. Any form meeting the requirements of this section shall be deemed sufficient notice under this section.

PART IV UNDOCUMENTED PROPERTY

305B.7 Acquiring title to undocumented property.

A museum acquires title to undocumented property held by a museum for seven years or longer with no valid claim or written contact by any person, all verifiable through the museum's written records.

PART V OBLIGATIONS OF LENDERS AND MUSEUMS

305B.8 Notice of intent to preserve an interest in property — requirements — form — disclosure.

1. A notice of intent to preserve an interest in property on loan to a museum filed pursuant to this chapter shall be in writing and contain all of the following information:
 - a. A description of the property adequate to enable the museum to identify the property.
 - b. Documentation sufficient to establish the claimant as owner of the property.
 - c. A statement attesting to the truth, to the best of the signer's knowledge, of all information included in or with the notice.
 - d. The signature, under penalty of perjury, of the claimant or a person authorized to act on behalf of the claimant.
2. The museum need not retain a notice which does not meet the requirements set forth in subsection 1. If, however, the museum does not intend to retain a notice for this reason, the museum shall promptly notify the claimant at the address given on the notice that the museum believes the notice is ineffective to preserve an interest, and the reasons for the insufficiency. The fact that a museum retains a notice under section 305B.12 does not mean that the museum accepts the sufficiency or accuracy of the notice or that the notice is effective to preserve an interest in property on loan to the museum.
3. A model form for notice of intent to preserve an interest in property on loan to a museum is included in the appendix to this chapter. A form that satisfies the requirements of subsection 1, facilitates recordkeeping by museums, and provides a place for recording evidence of receipt of a notice by a

museum, including the date of receipt, signature of the person receiving the notice, and the date on which a copy of the receipt is returned to the claimant shall be deemed sufficient notice under this section.

305B.8.5 Retroactive applicability.

Sections 305B.1 through 305B.8 are retroactively applicable to all property in the possession of a museum within the state on or after January 1, 1988.

305B.9 Limitations on actions against museums.

1. An action shall not be brought against a museum for damages because of injury to or loss of property loaned to the museum more than three years from the date the museum gives the lender or claimant notice of the injury or loss or ten years from the date of the injury or loss, whichever occurs earlier.
2. An action shall not be brought against a museum to recover property on loan more than one year from the date the museum gives the lender or claimant notice of its intent to terminate the loan.
3. An action shall not be brought against a museum to recover a loan or undocumented property more than seven years from the date of the last written contact between the lender or claimant and the museum as evidenced by the museum's records.
4. A lender or claimant is considered to have donated loaned property to the museum if the lender fails to file an action to recover the property on loan to the museum within the periods specified in subsections 1 through 3.
5. A person who purchases property from a museum acquires good title to the property if the museum represents that it has acquired title to the property pursuant to subsection 4.
6. Notwithstanding subsections 3 and 4, a lender or claimant who was not given notice as provided in this chapter that the museum intended to terminate a loan, as provided in section 305B.6, and who proves that the museum received an adequate notice of intent to preserve an interest in loaned property, which satisfies all of the requirements of section 305B.8, within the seven years immediately preceding the filing of an action to recover the property, may recover the property or, if the property has been disposed of, the reasonable value of the property at the time it was disposed of plus interest at the legal rate.
7. A museum is not liable at any time, in the absence of a court order, for returning property to the original lender, even if a claimant other than the lender has filed a notice of intent to preserve an interest in property. If persons claim competing interests in property in the possession of a museum, the burden is upon the claimants to prove their interest in an action in equity initiated by a claimant. A museum is not liable at any time for returning property to an uncontested claimant who produced reasonable proof of ownership pursuant to section 305B.8.
8. Section 305B.9 is effective July 1, 1989, and when effective is retroactively applicable to all property in the possession of the museum before July 1, 1989, and is prospectively applicable to all property in the possession of the museum on or after July 1, 1989, for which a claim is filed on or after July 1, 1989.

305B.10 Museum obligations.

In order to take title pursuant to this chapter a museum has the following obligations to a lender or claimant:

1. The museum shall retain all written records regarding the property for at least three years from the date of taking title pursuant to this chapter.
2. The museum shall keep written records on all loaned property acquired pursuant to section 305B.6. Records shall contain the following information:
 - a. Lender's name, address, and phone number.
 - b. Claimant's name, address, and phone number.
 - c. The nature and terms of the loan.
 - d. The beginning date of the loan period, if known.
3. A museum accepting a loan of property on or after January 1, 1989, shall inform the lender in writing at the time of the loan of the provisions of this chapter. A copy of the form notice prescribed in section 305B.8, or a citation to this chapter, is adequate for this purpose.
4. The museum is responsible for notifying a lender or claimant of the museum's change of address or dissolution.

305B.12 Lender obligations to museum.

1. The lender or claimant of property on loan to a museum shall notify the museum of a change of address or change in ownership of the property. Failure to notify the museum of these changes may result in the lender's or claimant's loss of rights in the property.
2. The lender or claimant of property on loan to a museum may file with the museum a notice of intent to preserve an interest in the property as provided for in section 305B.8. The filing of a notice of intent to preserve an interest in property on loan to a museum does not validate or make enforceable any claim which would be extinguished under the terms of a written agreement, or which would otherwise be invalid or unenforceable.

PART VI APPENDIX

NOTICE OF INJURY TO OR LOSS OF PROPERTY ON LOAN

Museum/Institution _____

Contact Person _____

Address _____

Phone _____ Date of Notice _____

Lender/Claimant _____

Address (last known) _____

Phone _____

In accordance with Iowa Code chapter 305B, the Museum Property Act, the above named institution hereby officially informs you of injury to or loss of the property on loan that is identified and described below.

Description of Property _____

Museum Registration/Identification No(s) of Loan(s) _____

Original Date of Loan _____ Term of Loan _____

Condition of Property at Time Loan was Initiated _____

Description and Cause of Damage _____

Action by Institution _____

Date of Action _____

Signed for the Institution _____

Type/Print Name and Title _____

Address _____

Phone _____

Date _____

TO BE COMPLETED BY THE LENDER OR CLAIMANT: I acknowledge receipt of the “Notice of Injury or Loss of Property on Loan” for the property identified above.

Signature _____

Type/Print Name _____

Address _____

Phone _____

RETURN TO INSTITUTIONAL CONTACT PERSON LISTED ABOVE.

Date Completed Form Received by Museum _____

Signature of Person Receiving Returned Form _____

NOTICE TO CONSERVE LOANED PROPERTY

Museum/Institution _____

Contact Person _____

Address _____

Phone _____ Date of Notice _____

Lender/Claimant _____

Address (last known) _____

Phone _____

In accordance with Iowa Code Chapter 305B the above named institution hereby officially informs you of conservation activity that shall be undertaken on the property on loan that is identified and described below.

Description of Property _____

Museum Registration/Identification No(s) of Loan(s) _____

Original Date of Loan _____ Term of Loan _____

Condition of Property at Time Loan was Initiated _____

Conservation Action to be Taken by the Institution _____

Date of Action _____

Signed for the Institution _____

Type/Print Name and Title _____

Address _____

Phone _____

Date _____

TO BE COMPLETED BY THE LENDER OR CLAIMANT: I acknowledge receipt of the "Notice to Conserve Loaned Property" for the property identified above.

Signature _____

Type/Print Name _____

Address _____

Phone _____

RETURN TO INSTITUTIONAL CONTACT PERSON LISTED ABOVE.

Date Completed Form Received by Museum _____

Signature of Person Receiving Returned Form _____

NOTICE OF INTENT TO TERMINATE A LOAN

Museum/Institution _____

Contact Person _____

Address _____

Phone _____ Date of Notice _____

Lender/Claimant _____

Address (last known) _____

Phone _____

Museum Registration/Identification No(s) of Loan(s) _____

Original Date of Loan _____

Terms of Loan _____

Description of Property _____

The records of _____ (Museum name) indicate that you currently have the above property on loan to it. The institution wishes to terminate the loan. You must contact the institution, establish your ownership of the property pursuant to section 305B.8, and make arrangements to collect the property. If you fail to do so promptly, you will be considered to have donated the property to the institution. You must complete and return the enclosed "Notice of Intent to Preserve an Interest in Property on Loan" within one hundred and twenty days (120) from the date of this notice, and make arrangements to collect the property within that time period, or your interests will automatically be terminated, and this institution will acquire title to the property, according to the provisions of Iowa Code chapter 305B.

For the Institution _____ Date _____

Signature

Address _____

ATTACHED: Notice of Intent to Preserve an Interest in Property on Loan

NOTICE OF INTENT TO PRESERVE AN INTEREST IN PROPERTY ON LOAN

TO LENDER OR CLAIMANT - Iowa Code chapter 305B requires you to notify this institution promptly in writing of any change of address or ownership of property on loan to a museum. If the museum is unable to contact you regarding your loan, you may lose rights to loaned property. If you want to maintain your rights to the property identified below, complete and return this form. If you do not return this notice of intent within one hundred and twenty days (120) from the date of the notice, your interests automatically will be terminated; the museum will acquire title to the property.

Museum/Institution _____

Contact Person _____

Address _____

Phone _____ Date of Notice _____

Lender/Claimant _____

Address (last known) _____

Phone _____

Museum Registration/Identification No(s) of Loan(s) _____

Description of Property (Attach an accurate, legible copy of the loan receipt, any materials documenting the loan, or provide a detailed description of the claimed property, including its general characteristics, identification number(s), and distinguishing characteristics.)

Original Date of Loan _____

Terms of Loan _____

Interest in Property (If you are not the original lender, describe the origin and nature of your interest in the property. Attach copies of documents supporting your interest sufficient to establish ownership of the property.)

TO THE INSTITUTION — I hereby notify the above named institution that I claim an interest in the property described in the Notice of the Intent to Terminate a Loan (Form 3).

I understand that I must make arrangements with the institution to retrieve said property within one year of the date of this notice or title to the property shall revert to the institution.

I understand that I must promptly notify the institution in writing of any changes in address or ownership of the property.

I declare under penalty of perjury that to the best of my knowledge that the information contained in this notice is true.

Signed _____ Date _____
Claimant

OR

I declare under penalty of perjury that I am authorized to act on behalf of the claimant. I am informed and believe the information contained in this notice to be true.

Signed _____ Date _____
Claimant's representative

PLEASE TYPE/PRINT

Name of Claimant _____
Address _____
Phone _____

Name of Claimant's Representative _____
Address _____
Phone _____

----- Institutional Use -----

Notice Received by _____
Date Received _____
Receipt Returned by _____
Date Returned _____

AMENDMENTS TO LB926

Introduced by

1 1. Strike original sections 1 and 2 and insert the following new
2 sections:

3 Section 1. Section 51-703, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 51-703 (1) In addition to any other information prescribed for a
6 particular notice, each notice given to the lender or claimant pursuant
7 to the Museum Property Act shall contain the following information:

8 (a) The lender's or claimant's name as appropriate;

9 (b) The lender's last-known address or the claimant's last-known
10 address as appropriate;

11 (c) A brief description of the property on loan;

12 (d) The date of the loan, if known;

13 (e) The name of the museum; and

14 (f) The name, address, and telephone number of the appropriate
15 person or office to be contacted regarding the property.

16 (2) Each notice given by a museum pursuant to the act shall be
17 mailed to the lender's and any claimant's last-known address by
18 restricted certified mail. Notice is deemed given if the museum receives
19 proof of receipt within thirty days after mailing the notice.

20 (3) Notice may be given by publication if the museum does not:

21 (a) Know the identity of the lender;

22 (b) Have the address or telephone number for the lender or the
23 address or telephone number for the claimant; or

24 (c) Receive proof of receipt of the notice by the person to whom the
25 notice was sent within thirty days after the notice was mailed.

26 (4) Notice by publication must be given by posting online on the
27 museum's website for a minimum of three consecutive weeks and by

1 ~~publication of a statement for one week at least once each week for three~~
2 ~~consecutive weeks~~ in a newspaper of general circulation in both the
3 county where the museum is located and the county of the lender's or
4 claimant's address, if any. The statement published in the newspaper must
5 contain (a) the museum's name and contact information, (b) notification
6 that the museum is acting to assert title, and (c) notification that
7 interested parties should contact the museum for a complete listing of
8 property to which the museum is asserting title.

9 Sec. 2. Section 51-705, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 51-705 Subject to any existing security interest in the property, a
12 museum may acquire title to undocumented property held by the museum for
13 at least seven years as follows:

14 (1) The museum must give notice as provided in subsection (3) of
15 section 51-703 that the museum is asserting title to the undocumented
16 property; and

17 ~~(2) The notice that the museum is asserting title to the property~~
18 ~~must include a statement containing substantially the following~~
19 ~~information:~~

20 ~~The records of (name of museum) fail to indicate the owner of record~~
21 ~~of certain property in its possession. The museum hereby asserts title to~~
22 ~~the following property: (general description of property). If you claim~~
23 ~~ownership or other legal interest in this property, you must contact the~~
24 ~~museum, establish ownership of the property, and make arrangements to~~
25 ~~collect the property. If you fail to do so within three years, you will~~
26 ~~be considered to have waived any claim you may have had to the property;~~
27 ~~and~~

28 ~~(2) (3) If a claimant or lender does not respond to such the notice~~
29 ~~provided in subdivision (2) of this section within one year three years~~
30 ~~by giving a written notice of intent to retain an interest in the~~
31 ~~property on loan, the museum's title to the property becomes absolute.~~

AMENDMENTS TO LB926

Introduced by Aguilar, 35.

1 1. Strike original sections 1 and 2 and insert the following new
2 sections:

3 Section 1. Section 51-703, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 51-703 (1) In addition to any other information prescribed for a
6 particular notice, each notice given to the lender or claimant pursuant
7 to the Museum Property Act shall contain the following information:

8 (a) The lender's or claimant's name as appropriate;

9 (b) The lender's last-known address or the claimant's last-known
10 address as appropriate;

11 (c) A brief description of the property on loan;

12 (d) The date of the loan, if known;

13 (e) The name of the museum; and

14 (f) The name, address, and telephone number of the appropriate
15 person or office to be contacted regarding the property.

16 (2) Each notice given by a museum pursuant to the act shall be
17 mailed to the lender's and any claimant's last-known address by
18 restricted certified mail. Notice is deemed given if the museum receives
19 proof of receipt within thirty days after mailing the notice.

20 (3) Notice may be given by publication if the museum does not:

21 (a) Know the identity of the lender;

22 (b) Have the address or telephone number for the lender or the
23 address or telephone number for the claimant; or

24 (c) Receive proof of receipt of the notice by the person to whom the
25 notice was sent within thirty days after the notice was mailed.

26 (4) Notice by publication must be given by posting online on the
27 museum's website for a minimum of three consecutive weeks and by

1 ~~publication of a statement for one week at least once each week for three~~
2 ~~consecutive weeks~~ in a newspaper of general circulation in both the
3 county where the museum is located and the county of the lender's or
4 claimant's address, if any. The statement published in the newspaper must
5 contain (a) the museum's name and contact information, (b) notification
6 that the museum is acting to assert title, and (c) notification that
7 interested parties should contact the museum for a complete listing of
8 property to which the museum is asserting title.

9 Sec. 2. Section 51-705, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 51-705 Subject to any existing security interest in the property, a
12 museum may acquire title to undocumented property held by the museum for
13 at least seven years as follows:

14 (1) The museum must give notice as provided in subsection (3) of
15 section 51-703 that the museum is asserting title to the undocumented
16 property; and

17 ~~(2) The notice that the museum is asserting title to the property~~
18 ~~must include a statement containing substantially the following~~
19 ~~information:~~

20 ~~The records of (name of museum) fail to indicate the owner of record~~
21 ~~of certain property in its possession. The museum hereby asserts title to~~
22 ~~the following property: (general description of property). If you claim~~
23 ~~ownership or other legal interest in this property, you must contact the~~
24 ~~museum, establish ownership of the property, and make arrangements to~~
25 ~~collect the property. If you fail to do so within three years, you will~~
26 ~~be considered to have waived any claim you may have had to the property;~~
27 ~~and~~

28 (2) ~~(3)~~ If a claimant or lender does not respond to such the notice
29 ~~provided in subdivision (2) of this section~~ within one year ~~three years~~
30 by giving a written notice of intent to retain an interest in the
31 property on loan, the museum's title to the property becomes absolute.

Nebraska Revised Statute 51-701 to 51-712: Museum Property Act

51-701.

Act, how cited.

Sections 51-701 to 51-712 shall be known and may be cited as the Museum Property Act.

Source

Laws 1996, LB 1276, § 1.

51-702.

Terms, defined.

For purposes of the Museum Property Act:

- (1) Claimant means a person who files a notice of intent to preserve an interest in property on loan to a museum as provided in section 51-706;
- (2) Claimant's address means the most recent address as shown on a notice of intent to preserve an interest in property on loan to a museum or notice of change of address, which notice is on file with the museum;
- (3) Lender means a person whose name appears on the records of the museum as the person legally entitled to or claiming to be legally entitled to property held by the museum;
- (4) Lender's address means the most recent address as shown on the museum's records pertaining to the property on loan from the lender;
- (5) Loan means a deposit of property not accompanied by a transfer of permanent title to the property;
- (6) Museum means an institution located in Nebraska and operated by a nonprofit corporation or a public agency, primarily for educational, scientific, historic preservation, or aesthetic purposes, and which owns, borrows, cares for, exhibits, studies, archives, or catalogs property. Museum includes, but is not limited to, historical societies, historic sites or landmarks, parks, monuments, libraries, and zoos;
- (7) Permanent loan means a loan of property to a museum for an indefinite period;

(8) Property means a tangible object, animate or inanimate, under a museum's care, which has intrinsic historic, artistic, scientific, or cultural value; and

(9) Undocumented property means property in the possession of a museum for which the museum cannot determine the owner by reference to the museum's records.

Source

Laws 1996, LB 1276, § 2.

51-703.

Notice; contents.

(1) In addition to any other information prescribed for a particular notice, each notice given pursuant to the Museum Property Act shall contain the following information:

- (a) The lender's or claimant's name as appropriate;
- (b) The lender's last-known address or the claimant's last-known address as appropriate;
- (c) A brief description of the property on loan;
- (d) The date of the loan, if known;
- (e) The name of the museum; and
- (f) The name, address, and telephone number of the appropriate person or office to be contacted regarding the property.

(2) Each notice given by a museum pursuant to the act shall be mailed to the lender's and any claimant's last-known address by restricted certified mail. Notice is deemed given if the museum receives proof of receipt within thirty days after mailing the notice.

(3) Notice may be given by publication if the museum does not:

- (a) Know the identity of the lender;
- (b) Have the address or telephone number for the lender or the address or telephone number for the claimant; or
- (c) Receive proof of receipt of the notice by the person to whom the notice was sent within thirty days after the notice was mailed.

(4) Notice by publication must be given at least once each week for three consecutive weeks either in a newspaper of general circulation in ~~both~~ the county where the museum is located ~~and the~~

~~county of the lender's or claimant's address, if any, or online or posted in a public area of the museum. (should we add: for three weeks.)~~

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Source

Laws 1996, LB 1276, § 3.

51-704.

Acquisition of title to loaned property; when.

Subject to any existing security interest in the property, a museum may acquire title to property on permanent loan or loaned for a specified term that has expired if:

- (1) The museum gives written notice that the museum is terminating the loan of the property;
- (2) The notice that the loan of the property is being terminated includes a statement containing substantially the following information:

The records of (name of museum) indicate that you have property on loan to it. The institution wishes to terminate the loan. If you desire to claim the property, you must contact the institution, establish your ownership of the property, and make arrangements to collect the property. If you fail to do so promptly, you will be considered to have donated the property to the institution; and

- (3) The lender does not respond to the notice of termination provided under subdivision (1) of this section within one year after receipt of the notice by filing a notice of intent to preserve an interest in the property on loan.

Source

Laws 1996, LB 1276, § 4.

51-705.

Acquisition of title to undocumented property; when.

Subject to any existing security interest in the property, a museum may acquire title to undocumented property held by the museum for at least seven years as follows:

- (1) The museum must give notice as provided in subsection (3) of section 51-703 that the museum is asserting title to the undocumented property;
- (2) The notice that the museum is asserting title to the property must include a statement containing substantially the following information:

The records of (name of museum) fail to indicate the owner of record of certain property in its possession. The museum hereby asserts title to the following property: (general description of property). If you claim ownership or other legal interest in this property, you must contact the museum, establish ownership of the property, and make arrangements to collect the property. If you fail to do so within ~~three~~ one years, you will be considered to have waived any claim you may have had to the property; and

(3) If a claimant or lender does not respond to the notice provided in subdivision (2) of this section within ~~three~~ one years by giving a written notice of intent to retain an interest in the property on loan, the museum's title to the property becomes absolute.

Source

Laws 1996, LB 1276, § 5.

51-706.

Preservation of interest in loaned property; notice; contents.

(1) A notice of intent to preserve an interest in property on loan to a museum filed pursuant to the Museum Property Act shall be in writing and contain all of the following information:

- (a) A description of the property adequate to enable the museum to identify the property;
- (b) Documentation sufficient to establish the claimant as owner of the property or a holder of a security interest in the property;
- (c) A statement attesting to the truth, to the best of the signer's knowledge, of all information included in or with the notice; and
- (d) The signature, under penalty of perjury, of the claimant or a person authorized to act on behalf of the claimant.

(2) The museum need not retain a notice which does not meet the requirements set forth in subsection (1) of this section. If the museum does not intend to retain a notice for this reason, the museum shall promptly notify the claimant at the address given on the notice that the museum believes the notice is ineffective to preserve an interest and the reasons for the insufficiency. The fact that a museum retains a notice under section 51-710 does not mean that the museum accepts the sufficiency or accuracy of the notice or that the notice is effective to preserve an interest in property on loan to the museum.

Source

Laws 1996, LB 1276, § 6.

51-707.

Conservation measures; authorized; effect.

(1) Unless there is a written loan agreement to the contrary, a museum may apply conservation measures to loaned property if immediate action is required to protect the property on loan or to protect other property in the custody of the museum, or the property on loan has become a hazard to the health and safety of the public or of the museum's staff, and:

(a) The museum cannot reach the lender at the lender's last address of record so that the museum and the lender can promptly agree on a solution; or

(b) The lender will not agree to the protective measures the museum recommends, yet is unwilling or unable to terminate the loan and retrieve the property.

(2) If a museum applies conservation measures under subsection (1) of this section, the museum:

(a) Has a lien on the property and on the proceeds from any disposition of the property for the costs incurred by the museum; and

(b) Is not liable for injury to or loss of the property if the museum:

(i) 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; and

(ii) Exercised reasonable care in the choice and application of the conservation measures.

Source

Laws 1996, LB 1276, § 7.

51-708.

Limitation of actions; liability.

(1) An action shall not be brought against a museum for damages because of injury to or loss of property loaned to the museum more than ~~three~~one years from the date the museum gives the lender or claimant notice of the injury or loss

(2) An action shall not be brought against a museum to recover property on loan more than one year after the date the museum gives the lender or claimant notice of its intent to terminate the loan or notice of acquisition of title to undocumented property.

(3) An action shall not be brought against a museum to recover property on loan more than ~~seven~~ one years from the date of the last written contact between the lender or claimant and the museum as evidenced by the museum's records.

(4) A lender or claimant is considered to have donated loaned property to the museum if the lender fails to file an action to recover the property on loan to the museum within the time periods specified in subsections (1) through (3) of this section.

(5) Notwithstanding subsections (3) and (4) of this section, a lender or claimant who was not given notice as provided in the Museum Property Act that the museum intended to terminate a loan as provided in section 51-704 and who proves that the museum received an adequate notice of intent to preserve an interest in loaned property, which satisfies all of the requirements of section 51-706, within the seven years immediately preceding the filing of an action to recover the property, may recover the property or, if the property has been disposed of, the reasonable value of the property at the time it was disposed of plus interest at the legal rate.

(6) A museum is not liable at any time, in the absence of a court order, for returning property to the original lender even if a claimant other than the lender has filed a notice of intent to preserve an interest in property. If a person claims competing interests in property in the possession of a museum, the burden is upon the claimant to prove the interest in an action in equity initiated by a claimant. A museum is not liable at any time for returning property to an uncontested claimant who produced reasonable proof of ownership or the existence of a security interest pursuant to section 51-706.

Source

Laws 1996, LB 1276, § 8.

51-709.

Obligations to lender or claimant.

In order to take title pursuant to the Museum Property Act, a museum has the following obligations to a lender or claimant:

- (1) The museum shall retain all written records regarding the property for at least ~~three~~ twenty-five years after the date of taking title pursuant to the act;
- (2) The museum shall keep written records on all loaned property acquired pursuant to section 51-704. Records shall contain the following information:
 - (a) The lender's name, address, and telephone number;
 - (b) The claimant's name, address, and telephone number;
 - (c) The nature and terms of the loan; and

(d) The beginning date of the loan period, if known; and

(3) The museum is responsible for notifying a lender or claimant of the museum's change of address or dissolution.

Source

Laws 1996, LB 1276, § 9.

51-710.

Records; maintenance and retention.

Beginning on July 19, 1996, a museum shall at a minimum maintain and retain the following records, either as originals or accurate copies, for a period of not less than twenty-five years:

(1) A notice of intent to preserve an interest in property, if any;

(2) The loan agreement, if any;

(3) A receipt or ledger for property delivered to an owner or claimant; and

(4) Records containing the following information, as available, for property in the museum's possession:

(a) The lender's name, address, and telephone number;

(b) The claimant's name, address, and telephone number;

(c) The donor's name, address, and telephone number;

(d) The seller's name, address, and telephone number;

(e) The nature and terms of the transaction (loan for specified term, loan for unspecified term, donation, purchase, etc.); and

(f) The beginning date of the loan period or transaction date.

Source

Laws 1996, LB 1276, § 10.

51-711.

Lender or claimant; duty to notify museum; when.

(1) The lender or claimant of property on loan to a museum shall notify the museum of a change of address or change in ownership of the property. Failure to notify the museum of these changes may result in the lender's or claimant's loss of rights in the property.

(2) The lender or claimant of property on loan to a museum may file with the museum a notice of intent to preserve an interest in the property as provided for in section 51-706. The filing of a notice of intent to preserve an interest in property on loan to a museum does not validate or make enforceable any claim which would be extinguished under the terms of a written agreement or which would otherwise be invalid or unenforceable.

Source

Laws 1996, LB 1276, § 11.

51-712.

Death of owner of property; effect.

Loaned property in the possession of a museum at the time of the owner's death which would otherwise escheat to the state shall not so escheat but shall become the property of the museum to which it is loaned.

Source

Laws 1996, LB 1276, § 12.

Oklahoma Museums Association
Guidelines Relating to Unclaimed, Undocumented, and Abandoned Property
(September, 2012)

Background

The Oklahoma Museums Association Abandoned Property Task Force developed these guidelines to assist museums in dealing with unclaimed property, undocumented property, and abandoned property. The Board of Directors of the Oklahoma Museums Association approved these guidelines on September 26, 2012. By creating these guidelines, the Oklahoma Museums Association hopes to establish uniform procedures for dealing with or disposing of unclaimed property, undocumented property, and abandoned property in museums.

This information is not intended to constitute legal or tax advice. A museum should consult with legal counsel for guidance as specific issues, concerns, or questions arise.

Definitions

Abandoned property includes items deposited with, delivered to, or left on the premises of a museum without adequate documentation as to source and type of transfer under circumstances of apparent abandonment. Items of abandoned property are commonly referred to as doorstep donations.

Loan (On Loan, Loaned) refers to property held by, or maintained in the possession of a museum with the understanding that the lender intends to retain title to the property and that the museum must return physical possession of the property to the lender at some point in the future.

Unclaimed property includes loans of property made to a museum that the museum would like to return, but is unable to do so because of an inability to locate the lender or because the museum cannot for some other reason return the property to the lender. Items of unclaimed property are commonly referred to as **old loans**. They include temporary, short-term loans of property, as well as loans of property made to the museum without a specific date for returning the property.

Undocumented property includes property, materials, artifacts, and other items that became part of the museum collection without adequate documentation regarding acquisition and, as a result, legal title may not be clear, may be uncertain, or may become subject to dispute. Undocumented property is often referred to as property **found in collections** and may have been acquired by loan, gift, bequest, purchase, abandonment, or some other means.

Concerns – Unclaimed and Undocumented Property

The legal arrangement between a museum and a lender of property to the museum is a **bailment**. Under this arrangement, the museum is generally obligated to take care of the property until the lender reclaims it. The museum must exercise reasonable care to prevent loss or damage to the property. This obligation could continue indefinitely.

A number of states have enacted laws enabling museums to resolve concerns relating to ownership, transfer, sale, or disposition of unclaimed and undocumented property. Oklahoma has not enacted laws that adequately address those concerns. As a result, museums in Oklahoma may face liability if the original owner, donor, contributor, or lender claims ownership and challenges the museum's claim of ownership. In many cases, unclaimed and undocumented property held by many Oklahoma museums has been maintained for decades. Also, in many instances the museum acquired the property before the now-customary use of donor agreements, loan agreements, temporary deposit receipts, or other documentation. With questionable legal title to unclaimed and undocumented property, museums can only make limited use of these items, while bearing the responsibility and cost of providing storage space, climate control, security, inventory control, insurance, conservation, records maintenance, and other services or resources.

In order to create certainty, promote uniformity, and manage the risks, responsibilities, and costs relating to unclaimed and undocumented property, museums should:

- Properly document every loan, gift, bequest, purchase, or other acquisition of property.
- Fairly allocate responsibilities between donors and lenders, on the one hand, and museums that are recipients of gifts and loaned items, on the other.
- Expeditiously resolve concerns relating to title and ownership of unclaimed and undocumented property left in their custody.
- When possible, work with the lender, donor, seller, or transferor to create documentation for property that is undocumented.

Legal Considerations

The Oklahoma Uniform Unclaimed Property Act provides that property is unclaimed when there is a lack of activity generated by the owner of the property. If it remains unclaimed for a certain amount of time, then it is considered abandoned and must be reported to the State Treasurer. Museums operated by a nonprofit corporation primarily for educational, scientific, historic preservation, or aesthetic purposes are not subject to the provisions of the Act and, therefore, are not required to report unclaimed property in their possession. A museum may, however, take advantage of the provisions of the Unclaimed Property Act with respect to unclaimed property that it holds, if it files the required reports of unclaimed property and complies with the other requirements of the Unclaimed Property Act. Museums may report abandoned and unclaimed property without charge at www.unclaimed.state.ok.us.

Rather than relying on the Oklahoma Uniform Unclaimed Property Act, the Oklahoma Museums Association advocates following the guidelines in this document to address unclaimed property, undocumented property and abandoned property within a museum's collection held in public trust (or held for the benefit of the public).

The Native American Graves Protection and Repatriation Act requires museums that receive federal funds to complete inventories and summaries of Native American cultural items

in their collections, publish notices in the Federal Register, and repatriate Native American human remains, funerary objects, sacred objects, and objects of cultural patrimony to lineal descendants and culturally affiliated Indian tribes. Museums that receive federal funds and that own, control, or have possession of those types of property or items should comply with the requirements of the Act. Information about the Act, including helpful answers to commonly-asked questions, can be found at <http://www.nps.gov/nagpra/mandates/index.htm>.

Museum's Obligations to a Lender

New Loans. When a new loan is made to the museum, the museum should, at the time the loan is approved:

- Enter into a written loan agreement with the lender. The loan agreement should, at a minimum, contain the following:
 - Lender's name, address, telephone number, email address, and other contact information;
 - Description of the property loaned in sufficient detail for ready identification;
 - A clear statement that the lender is providing the property on loan to the museum.
 - The beginning date of the loan;
 - The expiration date of the loan;
 - Any requirements relating to the identification of the property loaned;
 - Any restrictions relating to the property loaned;
 - A requirement that the lender is responsible for notifying the museum of changes of address and changes of ownership of the property loaned.
- Inform the lender of all loan conditions;
- Provide the lender the museum's procedure for unclaimed property loaned to the museum;
- Provide the lender with a fully signed copy of the loan agreement;
- Retain a fully signed copy of the loan agreement in the museum's records;
- Inform the lender of these guidelines and provide the lender a copy of these guidelines upon request.

Existing Loans. Regardless of the date of the loan, the museum should:

- Update its records at least annually and whenever the lender informs the museum of a change of address or change in ownership;
- Update its records if the lender and museum negotiate a change in the duration or other terms of the loan;
- Prepare an updated loan agreement or an amendment to the loan agreement if any of the terms of the loan change; obtain the signatures of the lender and the museum; furnish a fully signed copy to the lender; and retain a fully signed copy in the museum's records.
- Inform the lender of these guidelines and provide the lender a copy of these guidelines upon request.

Old Loans. The museum should:

- Determine what the lender and the museum want to do with the loaned property;
- Provide museum contact information to the lender;
- If the museum decides to terminate the loan, notify the lender of the museum's intent to terminate the loan. The notification, which may be in the form of a letter, should include:
 - The name and address of the lender, if known;
 - The name of the museum;
 - The date of the loan or the approximate date on which the property came into the custody of the museum;
 - A description of property;
 - The name, address, phone number, email address, and other contact information of the museum staff member who the lender should contact for further information;
 - A statement that the museum is terminating the loan, along with a request that the lender contact the museum within 60 days.
 - Any other information that the museum considers pertinent or important.
- If the lender does not respond within 60 days, the museum should send a second letter with the same information as the first letter, again asking the lender to contact the museum within 60 days. If at the end of the second 60-day period, the lender has still not responded, the museum should consider sending a third letter, stating that the museum has determined, based on the lender's failure to respond to the two prior letters, that the lender has donated the property as of the date of the third letter and that the museum claims title to, and ownership of, the property.
- If the first letter is returned as undeliverable or if the museum cannot locate the lender after a reasonable search with no indication of the lender's whereabouts, the museum may wish to treat the property as having been abandoned. In that case, the museum should consult with legal counsel.

Documentation

Unclaimed and Undocumented Property - Found in Collections

- The museum should document the length of time that the museum has held the property.
 - Documentation may include inventories, catalog records, dated photographs, correspondence, or other records of ownership, maintenance, or possession.
 - If the museum cannot find existing documentation, the museum should catalog the property with a tracking number and note in the museum's records the date on which the property was found in the collection. This provides the museum a timeline to use later if the museum wants to claim ownership of the property. For example, by noting that undocumented property was found in the museum's collection in September 2012, the museum now has a record that it may proceed to claim title to the property in seven years, which would be September 2019.

- The museum should consider giving public notice of intent to claim title to the property, depending on the cost of publication, the nature of the property, and the value of the property.
 - Publish notice in a newspaper of general circulation in the area where the museum is located at least once a week for three consecutive weeks;
 - The notice should, at a minimum, contain:
 - The museum's name;
 - The date or approximate date of the museum's acquisition of the property, if known;
 - A description of property;
 - The name, address, and phone number of the museum staff member to contact for further information;
 - A statement that if written proof of claim is not presented to the museum by the current owner, and if the owner's right to receive the property is not established to the museum's satisfaction within 180 days after the date of the 3rd public notice, the museum will consider the property to have been abandoned and will claim ownership of the property.
 - Publish a similar notice on museum's website.

Oklahoma law does not provide certainty, and this procedure does not guaranty that the museum will acquire title to the property. Museums should consult with their own legal counsel for advice and direction in these circumstances.

Abandoned Property - Doorstep Donations

- Document the abandonment of the property. This may include taking pictures of property in the location in which it was abandoned and recording pertinent data, such as where it was left, who found it, when it was found, any notes or information that was found with the property, and other information.
- Generally, the museum may presume that an unsolicited item of property left at a museum from an unknown source is a gift if no one claims ownership within a year.
- Decide whether the property should be held as part of the museum's permanent collection or whether the museum should dispose it.

Claims for Property

Claims for Undocumented or Previously Unclaimed Property

- In general, the museum should exercise due care to maintain and preserve any property it is given.
- If someone submits a claim of ownership of property that was previously unclaimed, that was undocumented, or that was previously considered abandoned, the museum must investigate the claim, unless it is clear to the museum that the claim is unsupported, unsubstantiated, and frivolous.
- The museum should verify the identity of the claimant and evaluate all aspects of the claim in an effort to determine whether the claimant was the original lender or donor.

- If the claimant does not claim to be the original lender or donor, the museum should establish the claimant's relationship to the lender or donor; ascertain the claimant's reasons and justification for the claim; and evaluate the claimant's authority for making the claim. The claimant must provide information satisfactory to the museum that the claimant is entitled to claim and take possession of the property.
- If multiple claims to ownership are submitted, the museum should defer a determination of ownership until the various claims are resolved by agreement or legal action. If the museum verifies that multiple claimants are joint owners, the museum should make sure all parties agree to the final disposition of the property before taking action.
- If the museum is satisfied that the claimant or claimants are entitled to take possession of the property, the museum should enter into an agreement with the claimant(s) relating to disposition of the property. Among other matters, the agreement should (a) identify all parties, (b) describe the property, (c) state the circumstances relating to the claim, (d) provide an authorization for the museum to make the property available for retrieval by a specific person, (e) include representations by the claimant(s) that they are entitled to direct the return of the property and to provide the authorizations in the agreement, (f) permit the museum to take and retain photographs and make copies of any written documentation that is being returned, (g) include an indemnification by the claimant(s) to protect the museum from claims by others for the same property, (h) release the museum from liability relating to its prior possession of the property, and (i) be signed by all claimants.
- If the museum would like to retain the property, the museum should suggest or encourage the claimant or claimants to donate it or to provide it on loan for a specific period of time. If the claimant(s) agree, the museum should document their agreement and donation.

No Claim Submitted after Notice, Inquiry

- If no one claims the property, then the museum may wish to claim the property as having been abandoned. Oklahoma law does not provide certainty, so museums should consult with their own legal counsel for advice and direction in these circumstances.
- If the museum determines that the property has been abandoned, then the museum must decide whether to dispose of the property or to add it to its collection. If the museum chooses to dispose of the property, the museum should keep records, including descriptions of the property, method of disposition, and value at time of disposition.

Conservation Measures

Unless a written loan agreement provides otherwise, a museum may apply conservation measures to, or dispose of, undocumented property or property on loan to the museum without the owner's permission if:

- Immediate action is required to protect the property; or

- The property has become a hazard to the health and safety of the public or to the museum's staff, due to one or more of the following:
 - The property poses an immediate risk of harm to the museum's staff or collection or to the general public, in which case the museum should promptly notify the owner or, if the museum is not able to locate the owner, the museum may dispose of the property without delay and undertake efforts to notify the owner of the action taken;
 - The museum is unable to reach the owner through available means of communication and is required to take immediate action; or
 - The museum contacts the owner, but the owner does not agree to the protective measures that the museum recommends and does not or is unable to terminate the loan and collect the property within the time the museum determines the action is necessary.

When a conservation measure is undertaken, the museum:

- May claim a lien on the property in the amount of the costs incurred by the museum;
- Should generally not be liable to the owner for damage to, or loss of, the loaned property, as long as the museum acted properly and had a reasonable belief at the time the action was taken that the action was necessary due to an immediate risk of harm; and
- Should not be liable to the owner for damage to, or loss of, the property due to conservation measures applied, as long as the museum exercised reasonable care in choosing and applying such conservation measures.

Again, Oklahoma law does not provide certainty in this area, and museums should consult with their own legal counsel for advice and direction in these circumstances.

Other Considerations

Legal Certainty – This information is intended to serve as a guideline for museums. As noted, Oklahoma law does not provide certainty with respect to some of the matters described, and museums should consult with their own legal counsel for advice and direction, as necessary appropriate.

Contractual Obligations - A museum and lender can establish by contract a different process and different requirements relating to property donated or loaned.

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. **228** Session of
2023

INTRODUCED BY PHILLIPS-HILL, COSTA AND ROBINSON,
JANUARY 31, 2023

REFERRED TO STATE GOVERNMENT, JANUARY 31, 2023

AN ACT

1 Providing for museum unclaimed loaned property.

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17 Section 15. Effective date.

1 The General Assembly of the Commonwealth of Pennsylvania
2 hereby enacts as follows:

3 Section 1. Short title.

4 This act shall be known and may be cited as the Museum
5 Unclaimed Loaned Property Act.

6 Section 2. Legislative findings.

7 The General Assembly finds and declares the following:

8 (1) The residents of this Commonwealth have an interest
9 in the growth and maintenance of museum collections and in
10 the preservation and protection of unclaimed loaned property
11 of artistic, historic, cultural or scientific value left in
12 the custody of museums within this Commonwealth.

13 (2) Loans of property of artistic, historic, cultural or
14 scientific value are made to museums to further educational
15 purposes.

16 (3) When lenders of property for museums fail to stay in
17 contact, museums must routinely store and care for the loaned
18 property long after the loan periods have expired or should
19 reasonably be deemed expired.

20 (4) Nevertheless, museums have limited rights to the use
21 and treatment of unclaimed loaned property, all the while
22 bearing substantial costs related to the storage,
23 recordkeeping, climate control, security, periodic
24 inspection, insurance, general overhead and conservation
25 associated with the unclaimed loaned property.

26 (5) It is in the public's interest to:

27 (i) Encourage museums and the lenders of property
28 for museums to use due diligence in monitoring the loaned
29 property.

30 (ii) Allocate fair responsibilities between museums

1 and the lenders of property for museums.

2 (iii) Resolve expeditiously the issue of title of
3 unclaimed loaned property left in the custody of museums.

4 Section 3. Purpose of act.

5 The purpose of this act is to establish uniform rules to
6 govern the disposition of museum unclaimed loaned property.

7 Section 4. Definitions.

8 The following words and phrases when used in this act shall
9 have the meanings given to them in this section unless the
10 context clearly indicates otherwise:

11 "Claimant." An individual, corporation, partnership, trust,
12 estate or similar organization that files notice of intent to
13 preserve an interest in loaned property in the custody of a
14 museum as provided in section 9(b).

15 "Lender." An individual, corporation, partnership, trust,
16 estate or similar organization whose name appears on the records
17 of a museum as the person legally entitled to control loaned
18 property in the custody of the museum. The term includes a
19 successor of an original lender.

20 "Loan." A transaction between a lender and a museum
21 regarding property of the lender in which the museum maintains
22 custody of the property.

23 "Loaned property." Property that is in the possession of a
24 museum, accompanied by evidence that the lender of the property
25 intended to retain title to the property and return to take
26 physical possession of the property in the future.

27 "Museum." As follows:

28 (1) A public or private nonprofit agency or institution
29 that is:

30 (i) located in this Commonwealth;

1 (ii) organized on a permanent basis for educational
2 or aesthetic purposes; and
3 (iii) owns or utilizes tangible objects, cares for
4 tangible objects and exhibits tangible objects to the
5 public on a regular basis.

6 (2) The term includes a historical society, park,
7 historic site, historic monument, archive or library.

8 "Museum records." Documents that are created or held by a
9 museum in the regular course of business of the museum.

10 "Property." A tangible or digital object that is in the
11 custody of a museum and that has intrinsic historical, artistic,
12 scientific or cultural value.

13 "Restricted certified mail." Certified mail that carries on
14 its face, in a conspicuous place where it will not be
15 obliterated, the endorsement "deliver to addressee only" and for
16 which the post office provides the mailer with a return receipt
17 showing the date of delivery, the place of delivery and the
18 person to whom delivered.

19 "Unclaimed loaned property." Property:

20 (1) that is on loan to a museum; and

21 (2) whose original lender, or any person acting
22 legitimately on behalf of the lender, has not contacted the
23 museum for at least 20 years from the beginning date of the
24 loan of the property, if the loan of the property was for an
25 indefinite or undetermined period or for at least five years
26 after the date upon which the loan of the property for the
27 definite period expired.

28 Section 5. Museum obligations to lenders.

29 (a) Recordkeeping for new loaned property.--For property
30 loaned to a museum on or after the effective date of this

1 subsection, the museum shall do all of the following at the time
2 of the loan:

3 (1) Make and retain a written record containing at least
4 all of the following:

5 (i) The name, address and telephone number of the
6 lender.

7 (ii) A description of the loaned property in
8 sufficient detail for ready identification.

9 (iii) The beginning date of the loan.

10 (iv) The expiration date of the loan.

11 (2) Provide the lender with a signed receipt or loan
12 agreement containing at least the record specified in
13 paragraph (1).

14 (3) Inform the lender of the existence of this act and
15 provide the lender with a copy of this act upon request of
16 the lender.

17 (b) Recordkeeping for existing loaned property.--Regardless
18 of the date of the loan of property to a museum, the museum
19 shall do all of the following:

20 (1) Update the records of the museum if:

21 (i) a lender informs the museum of a change of
22 address or change in ownership of the loaned property; or

23 (ii) the lender and museum negotiate a change in the
24 duration of the loan.

25 (2) Inform the lender of the existence of this act when
26 renewing or updating the records of an existing loan and
27 provide the lender with a copy of this act upon request of
28 the lender.

29 Section 6. Lender obligations to museums.

30 (a) Required notices.--Regardless of the date of the loan of

1 property in the custody of a museum, a lender shall promptly
2 notify the museum in writing of the following:

3 (1) A change of the address or telephone number of the
4 lender.

5 (2) The name, address and telephone number of the
6 successor of the lender.

7 (3) The name, address and telephone number of the
8 designated agent of the owner of the loaned property.

9 (4) A change of the address or telephone number of the
10 designated agent of the owner of the loaned property.

11 (5) A change in ownership of the loaned property and the
12 name, address and telephone number of the new owner of the
13 loaned property.

14 (b) Documentation establishing ownership.--A successor of a
15 lender shall document passage of rights of control to the loaned
16 property in the custody of the museum.

17 Section 7. Liability.

18 (a) Prejudice.--Unless there is evidence of bad faith or
19 gross negligence, a museum shall not be prejudiced by reason of
20 any failure to deal with the true owner of loaned property.

21 (b) Surrender of loaned property.--In a case of disputed
22 ownership of loaned property, a museum shall not be held liable
23 for its refusal to surrender loaned property in its possession
24 except in reliance upon a court order or judgment.

25 Section 8. Termination of loans for unclaimed loaned property.

26 (a) Authorization.--A museum may terminate a loan for
27 unclaimed loaned property in the museum's possession in
28 accordance with this section.

29 (b) Search.--A museum shall make a good faith and reasonable
30 search for the identity and last known address of the lender

1 from the museum records and other records reasonably available
2 to the museum staff.

3 (c) Notice.--

4 (1) Following a search under subsection (b):

5 (i) If the museum identifies the lender and the
6 lender's last known address, the museum shall give actual
7 notice to the lender that the loan is terminated in
8 accordance with paragraph (2).

9 (ii) If the identity or the last known address of
10 the lender remains unknown, the museum shall give notice
11 by publication in accordance with paragraph (3).

12 (2) Actual notice of termination by a museum of a loan
13 for unclaimed loaned property shall be provided by a letter
14 to the lender, which shall be sent by restricted certified
15 mail to the last known address of the lender and which shall
16 include the following information:

17 (i) The date of notice of termination.

18 (ii) The name of the lender.

19 (iii) A description of the loaned property in
20 sufficient detail for ready identification.

21 (iv) The approximate initiating date of the loan and
22 termination date, if applicable and known.

23 (v) The name and address of the designated museum
24 official to be contacted regarding the loan.

25 (vi) A statement that within 90 days of the date of
26 the notice of termination, the lender is required to
27 remove the loaned property from the museum or contact the
28 designated museum official to preserve the lender's
29 interests in the loaned property and that failure to do
30 so will result in the loss of all rights in the loaned

1 property in accordance with section 10.

2 (3) Notice by publication of termination by a museum of
3 a loan for unclaimed loaned property shall be provided as
4 follows:

5 (i) This paragraph only applies if:

6 (A) a search under subsection (b) is
7 unsuccessful and the museum is unable to send actual
8 notice in accordance with paragraph (2); or

9 (B) a signed return receipt of a notice sent by
10 restricted certified mail under paragraph (2) is not
11 received by the museum within 30 days after the
12 notice was mailed.

13 (ii) The museum shall publish the notice of
14 termination, which includes all the information that is
15 specified under paragraph (2) and available to the
16 museum, in a publication of general circulation in the
17 county of the last known address of the lender, if known,
18 and the county in which the museum is located. The
19 following apply:

20 (A) The notice shall be published at least twice
21 and at least 60 days apart.

22 (B) If the loan of property was made to a branch
23 of the museum, the museum shall be deemed to be
24 located in the county in which the branch is located.

25 Section 9. Return or disposition of unclaimed loaned property.

26 (a) Written claim by lender.--If a museum receives a written
27 claim of ownership for loaned property for which notice was
28 provided under section 8(c)(2) or (3), the museum shall return
29 the loaned property to the lender or carry out the disposition
30 of the loaned property as the lender requests, not later than 90

1 days after receipt of the written claim of ownership. The
2 following apply:

3 (1) The lender shall advise the museum in writing as to
4 the disposition of the loaned property or how the loaned
5 property is to be returned to the lender.

6 (2) Any costs incurred as a result of returning the
7 loaned property or the disposition of the loaned property
8 shall be the responsibility of the lender, unless the lender
9 and the museum have mutually agreed to alternate
10 arrangements.

11 (b) Written claim by others.--If a museum receives a written
12 claim of ownership for loaned property for which notice was
13 provided under section 8(c)(2) or (3) from a person other than
14 the lender or lender's agent on record with the museum, the
15 museum shall determine if the ownership claim is valid not later
16 than 90 days after receipt of the written claim of ownership.
17 The following apply:

18 (1) A claimant shall submit proof of ownership to the
19 museum with the written claim of ownership.

20 (2) If more than one person submits a written claim of
21 ownership, the museum may delay its determination of
22 ownership until the competing claims are resolved by
23 agreement or legal action.

24 (3) If the museum determines that the written claim of
25 ownership is valid or if the competing claims are resolved by
26 agreement or legal action, the museum shall return the loaned
27 property to the claimant submitting the valid claim of
28 ownership or dispose of the loaned property as the valid
29 claimant requests.

30 (4) Any costs incurred as a result of returning the

1 loaned property or the disposition of the loaned property
2 shall be the responsibility of the valid claimant, unless the
3 valid claimant and the museum have mutually agreed to
4 alternate arrangements.

5 Section 10. Title to unclaimed loaned property.

6 (a) Conditions.--As of the effective date of this
7 subsection, a museum acquires title to unclaimed loaned property
8 under any of the following circumstances:

9 (1) For loaned property for which a museum provides
10 actual notice to a lender in accordance with section 8(c)(2)
11 and a signed receipt is received, if a lender of that loaned
12 property does not contact the museum within 90 days after the
13 date notice was received.

14 (2) For loaned property for which notice by publication
15 is made in accordance with section 8(c)(3), if a lender or
16 any person claiming a legal interest in that loaned property
17 does not contact the museum within 90 days after the date of
18 the second publication of the notice.

19 (b) Effect of act.--Nothing in this act shall preclude a
20 museum from availing itself of any other means of establishing
21 or perfecting title to property in the possession of the museum.

22 Section 11. Contractual obligations.

23 Notwithstanding the other provisions of this act, a lender
24 and museum may bind themselves to different loan provisions by
25 written contract.

26 Section 12. Effect on other rights.

27 (a) Escheat.--Property on loan to a museum shall not escheat
28 to the Commonwealth under Article XIII.1 of the act of April 9,
29 1929 (P.L.343, No.176), known as The Fiscal Code, or any other
30 law of this Commonwealth, but shall pass to the museum in

1 accordance with section 10.

2 (b) Federal law.--This act shall not apply to property in
3 the possession of a museum under 25 U.S.C. § 3001 et seq.
4 (Native American Graves Protection and Repatriation Act).

5 (c) Stolen property.--This act shall not apply to property
6 that is reported as stolen to a law enforcement agency, insurer
7 or the art loss register, or a successor organization having
8 similar purposes, no later than three years following the theft
9 or discovery of the theft, or was created before 1945 and
10 changed hands due to theft, seizure, confiscation, forced sale
11 or other involuntary means in Europe during the Nazi era between
12 1933 and 1945.

13 (d) Other property interests.--Property interests other than
14 those specifically addressed in this act are not altered by this
15 act.

16 Section 13. Title to property acquired from museum.

17 A museum that acquires title to unclaimed loaned property
18 under this act passes good title to another person when
19 transferring that property with the intent to pass title.

20 Section 14. Expenses and conservation or protective measures.

21 (a) Lien authorized.--As of the effective date of this
22 subsection, a museum shall have a lien for expenses for the
23 reasonable care of unclaimed loaned property after the
24 expiration date of the loan.

25 (b) Conditions required to apply conservation or protective
26 measures.--Unless the written loan agreement for the property
27 provides otherwise, a museum may apply conservation or
28 protective measures to loaned property without the permission of
29 the lender or formal notice to the lender if:

30 (1) Action is required to:

1 (i) protect the loaned property or other property in
2 the possession of the museum; or

3 (ii) protect the health and safety of the public or
4 museum staff because the loaned property is a hazard.

5 (2) Any of the following applies:

6 (i) The museum is unable to contact the lender at
7 the address on record for the lender within five business
8 days before the time in which the museum determines that
9 action is necessary.

10 (ii) The lender does not:

11 (A) respond or agree to the conservation or
12 protective measures recommended by the museum; and

13 (B) terminate the loan and take possession of
14 the loaned property on or before the fifth business
15 day after the museum contacts the lender.

16 (c) Amount of lien.--If a museum applies conservation or
17 protective measures to loaned property under this act, or with
18 the agreement of the lender, unless the written loan agreement
19 for the loaned property provides otherwise, the museum shall
20 acquire a lien on the loaned property in an amount equal to the
21 costs incurred by the museum for the conservation or protective
22 measures taken.

23 (d) Liability.--A museum shall not be liable for injury to
24 or loss of loaned property for which conservation or protective
25 measures were taken under this act, if all of the following
26 apply:

27 (1) The museum had a reasonable belief at the time that
28 the conservation or protective measures were taken that:

29 (i) the measures were necessary to protect the
30 loaned property or other property in the possession of

1 the museum; or

2 (ii) the loaned property was a hazard to the health
3 and safety of the public or museum staff.

4 (2) The museum exercised reasonable care in the choice
5 and application of the conservation or protective measures.

6 Section 15. Effective date.

7 This act shall take effect in 60 days.