

Establishing Ownership of Property Loaned to Museums

This Act creates a process for establishing ownership of property that is loaned to museums and archives repositories and then abandoned by the original owner.

Submitted as:

Minnesota

[HF 1645](#)

Status: Enacted into law in 2004.

Suggested State Legislation

(Title, enacting clause, etc.)

1 Section 1. [*Short Title.*] This Act may be cited as “An Act to Help Establish
2 Ownership of Property that is Loaned to Museums and then Abandoned by the Original
3 Owner.”

4
5 Section 2. [*Definitions.*] As used in this Act:

6 (A) “Archives repository” means a nonprofit organization or a public agency whose
7 primary functions include selecting, preserving, and making available records of historical or
8 enduring value, and that is open to the public on a regular basis. Archives repository does not
9 include a public library.

10 (B) “Loan” means the placement of property with a museum or archives repository
11 that is not accompanied by a transfer of title of the property to the museum or archives
12 repository and for which there is some record that the owner intended to retain title to the
13 property. Loan does not include transfers between museums, between archives repositories,
14 or between museums and archives repositories unless the transferring institution specifically
15 provides in writing that the transfer is a loan under this section.

16 (C) “Museum” means a nonprofit organization or a public agency that is operated
17 primarily for the purpose of collecting, cataloging, preserving, or exhibiting property of
18 educational, scientific, historic, cultural, or aesthetic interest and that is open to the public on
19 a regular basis. Museum does not include a public library.

20 (D) “Property” means personal property.

21
22 Section 3. [*Loans of Property to a Museum or Archives Repository: Ownership*
23 *Records.*] Each museum or archives repository shall keep accurate records of all property on
24 loan to the museum or archives repository, including the name and address of the owner, if
25 known, and the beginning and ending date of the loan period. At the time that a person
26 makes a loan to a museum or archives repository, the museum or archives repository shall
27 give the owner of the property a copy of this [Act/Statute]. If a museum or archives
28 repository is notified of a change in the ownership of any property loaned to a museum or
29 archives repository, the museum or archives repository shall inform the new owner of the
30 provisions of the loan agreement and shall send the new owner a copy of this [Act/Statute].
31 Not less than [90 days] before a museum or archives repository changes its address or

32 dissolves, the museum or archives repository shall notify all owners of that change of address
33 or dissolution. If a museum or archives repository becomes the owner of property under
34 section 5 of this Act, the museum or archives repository shall maintain any records that the
35 museum or archives repository has regarding the property for not less than [two years] after
36 the date on which the museum or archives repository becomes the owner of the property.

37
38 Section 4. [*Change in Address or Ownership.*] The owner of property loaned to a
39 museum or archives repository shall provide the museum or archives repository with written
40 notice of any change of the owner's address, of the owner's designated agent, of the
41 designated agent's address, and of the name and address of the new owner if there is a
42 change in the ownership of the property loaned to the museum or archives repository.

43
44 Section 5. [*Acquiring Title to Abandoned Property*]

45 (A) Property loaned to a museum or archives repository whose loan has an expiration
46 date is abandoned when there has not been written contact between the owner and the
47 museum or archives repository for at least [seven years] after that expiration date. If the loan
48 has no expiration date, the property is abandoned when there has not been written contact
49 between the owner and the museum or archives repository for at least [seven years] after the
50 museum or archives repository took possession of the property.

51 (B) If a museum or archives repository wishes to acquire title to abandoned property,
52 the museum or archives repository shall, not less than [60 days] after property is abandoned
53 under part (A) of this section, send a notice by certified mail with return receipt requested to
54 the owner's last known address. The notice shall contain all of the following:

55 (1) a statement that the loan is terminated and that the property is abandoned;

56 (2) a description of the property;

57 (3) a statement that the museum or archives repository will become the owner
58 of the property if the present owner does not submit a written claim to the property to the
59 museum or archives repository within [60 days] after receipt of the notice; and

60 (4) a statement that the museum or archives repository will make
61 arrangements with the owner to return the property to the owner or dispose of the property as
62 the owner requests if the owner submits a written claim to the property to the museum or
63 archives repository within [60 days] after receipt of the notice.

64 (C) The notice required in part (B) of this section shall be substantially in the
65 following form:

66
67 NOTICE OF ABANDONMENT OF PROPERTY

68
69 To: (name of owner)

70 (address of owner)

71
72 Please be advised that the loan agreement is terminated for the following
73 property (describe the property in sufficient detail to identify the property):

74
75
76

77
78 The above described property that you loaned to
79 (name and address of museum or archives repository) will be considered
80 abandoned by you and will become the property of

81 (name of museum or archives repository) if you
82 fail to submit to the museum or archives repository a written claim to the
83 property within 60 days after receipt of this notice.
84

85 If you do submit a written claim to the property within 60 days after receipt of
86 this notice, (name of museum or archives
87 repository) will arrange to return the property to you or dispose of the property
88 as you request. The cost of returning the property to you or disposing of the
89 property is your responsibility unless you have made other arrangements with
90 the museum or archives repository.
91

92 (name of person to contact at
93 museum or archives repository and address of museum or archives repository)
94

95 (C) If the notice sent by the museum or archives repository under this section of this
96 Act is returned to the museum or archives repository undelivered, the museum or archives
97 repository shall give notice of the abandoned property by publication, and the organization's
98 Web site, if applicable, containing the following:

- 99 (1) the name and last known address of the present owner;
- 100 (2) a description of the property;
- 101 (3) a statement that the property is abandoned and that the museum or
102 archives repository will become the owner of the property if no person can prove their
103 ownership of the property;
- 104 (4) a statement that a person claiming ownership of the property shall notify
105 the museum or archives repository in writing of that claim within [60 days] after publication
106 of the last legal notice; and
- 107 (5) the name and mailing address of the person who may be contacted at the
108 museum or archives repository if a person wants to submit a written claim to the property.
109

110 Section 6. [*Claims for the Property.*]

111 (A) If the museum or archives repository receives a timely written claim for the
112 property from the owner or the owner's agent in response to the notice sent under section 5
113 of this Act, the museum or archives repository shall return the property to the owner or
114 dispose of the property as the owner requests. The owner shall advise the museum or
115 archives repository in writing as to how the property shall be disposed of or returned to the
116 owner. Costs of returning the property or disposing of the property shall be the responsibility
117 of the owner unless the owner and the museum or archives repository have made other
118 arrangements.

119 (B) If the museum or archives repository receives a timely written claim for the
120 property from a person other than the person who loaned the property to the museum or
121 archives repository in response to the notice sent under section 5 of this Act, the museum or
122 archives repository shall, within [60 days] after receipt of the written claim, determine if the
123 claim is valid. A claimant shall submit proof of ownership with the claim. If more than one
124 person submits a timely written claim, the museum or archives repository may delay its
125 determination of ownership until the competing claims are resolved by agreement or legal
126 action. If the museum or archives repository determines that the claim is valid, or if the
127 competing claims are resolved by agreement or judicial action, the museum or archives
128 repository shall return the property to the claimant submitting the valid claim or dispose of

129 the property as the valid claimant requests. Costs of returning the property or disposing of
130 the property shall be the responsibility of the valid claimant.

131 (C) If the museum or archives repository does not receive a timely written claim to
132 the property or if the museum or archives repository determines that no valid timely claim to
133 the property was submitted, the museum or archives repository becomes the owner of the
134 property. The museum or archives repository becomes the owner of the property on the day
135 after the period for submitting a written claim ends or on the day after the museum or
136 archives repository determines that no valid timely written claim was submitted. The
137 museum or archives repository owns the property free from all claims.

138

139 Section 7. [*Acquiring Title to Undocumented Property.*]

140 (A) Property in the possession of a museum or archives repository which the museum
141 or archives repository has reason to believe may be on loan and, for which the museum or
142 archives repository does not know the owner, or have any reasonable means of determining
143 the owner, becomes the property of the museum or archives repository if no person has
144 claimed the property within [seven years] after the museum or archives repository took
145 possession of the property. The museum or archives repository becomes the owner of the
146 property on the day after the [seven-year] period ends, and after following the notification
147 process outlined in part (B) of this section, free from all claims.

148 (B) The museum or archives repository that wishes to acquire title to undocumented
149 property described in part (A) of this section shall provide public notice in the manner
150 described in section 5 of this Act.

151

152 Section 8. [*Presumption of Gift to Museum.*] Effective [August 1, 2004], property that
153 is found in or on property controlled by the museum; is from an unknown source; and might
154 reasonably be assumed to have been intended as a gift to the museum, is conclusively
155 presumed to be a gift to the museum if ownership of the property is not claimed by a person
156 within [90 days] of its discovery.

157

158 Section 9. [*Conservation of Museum Property.*]

159 (A) Unless there is a written loan agreement to the contrary, a museum may apply
160 conservation measures to property on loan to the museum without the lender's permission or
161 formal notice if action is required to protect the property on loan or other property in the
162 custody of the museum, or the property on loan is a hazard to the health and safety of the
163 public or the museum staff, and either:

164 (1) the museum is unable to reach the lender at the lender's last known
165 address within three days before the time the museum determines action is necessary; or

166 (2) the lender does not respond or will not agree to the protective measures the
167 museum recommends and does not terminate the loan and retrieve the property within three
168 days.

169 (B) If a museum applies conservation measures to property under this section, or with
170 the agreement of the lender, unless the agreement provides otherwise, the museum acquires a
171 lien on the property in the amount of the costs incurred by the museum.

172 (C) The museum is not liable for injury to or loss of the property if the museum:

173 (1) had a reasonable belief at the time the action was taken that the action was
174 necessary to protect the property on loan or other property in the custody of the museum, or
175 that the property on loan was a hazard to the health and safety of the public or the museum
176 staff; and

177 (2) exercised reasonable care in the choice and application of conservation
178 measures.

179
180 Section 10. [*Severability.*] [Insert severability clause.]

181
182 Section 11. [*Repealer.*] [Insert repealer clause.]

183
184 Section 12. [*Effective Date.*] [Insert effective date.]