

# 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 Ownership  
2 of Property that is Loaned to Museums and then Abandoned by the Original Owner.”

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

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

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

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

19           (D) “Property” means personal property.

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21           Section 3. [*Loans of Property to a Museum or Archives Repository: Ownership*  
22 *Records.*] Each museum or archives repository shall keep accurate records of all property on loan  
23 to the museum or archives repository, including the name and address of the owner, if known,  
24 and the beginning and ending date of the loan period. At the time that a person makes a loan to a  
25 museum or archives repository, the museum or archives repository shall give the owner of the  
26 property a copy of this [Act/Statute]. If a museum or archives repository is notified of a change  
27 in the ownership of any property loaned to a museum or archives repository, the museum or  
28 archives repository shall inform the new owner of the provisions of the loan agreement and shall  
29 send the new owner a copy of this [Act/Statute]. Not less than [90 days] before a museum or  
30 archives repository changes its address or dissolves, the museum or archives repository shall  
31 notify all owners of that change of address or dissolution. If a museum or archives repository  
32 becomes the owner of property under section 5 of this Act, the museum or archives repository  
33 shall maintain any records that the museum or archives repository has regarding the property for

34 not less than [two years] after the date on which the museum or archives repository becomes the  
35 owner of the property.

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

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

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

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

- 54 (1) a statement that the loan is terminated and that the property is abandoned;
- 55 (2) a description of the property;
- 56 (3) a statement that the museum or archives repository will become the owner of  
57 the property if the present owner does not submit a written claim to the property to the museum  
58 or archives repository within [60 days] after receipt of the notice; and
- 59 (4) a statement that the museum or archives repository will make arrangements  
60 with the owner to return the property to the owner or dispose of the property as the owner  
61 requests if the owner submits a written claim to the property to the museum or archives  
62 repository within [60 days] after receipt of the notice.

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

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66 NOTICE OF ABANDONMENT OF PROPERTY

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68 To: ..... (name of owner)  
69 ..... (address of owner)

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

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74 .....

75 .....

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77 The above described property that you loaned to .....  
78 (name and address of museum or archives repository) will be considered  
79 abandoned by you and will become the property of .....  
80 ..... (name of museum or archives repository) if you fail  
81 to submit to the museum or archives repository a written claim to the property  
82 within 60 days after receipt of this notice.

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

..... (name of person to contact at museum or archives repository and address of museum or archives repository)

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

(1) the name and last known address of the present owner;

(2) a description of the property;

(3) a statement that the property is abandoned and that the museum or archives repository will become the owner of the property if no person can prove their ownership of the property;

(4) a statement that a person claiming ownership of the property shall notify the museum or archives repository in writing of that claim within [60 days] after publication of the last legal notice; and

(5) the name and mailing address of the person who may be contacted at the museum or archives repository if a person wants to submit a written claim to the property.

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

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

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

(C) If the museum or archives repository does not receive a timely written claim to the property or if the museum or archives repository determines that no valid timely claim to the property was submitted, the museum or archives repository becomes the owner of the property.

132 The museum or archives repository becomes the owner of the property on the day after the  
133 period for submitting a written claim ends or on the day after the museum or archives repository  
134 determines that no valid timely written claim was submitted. The museum or archives repository  
135 owns the property free from all claims.  
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137 Section 7. [*Acquiring Title to Undocumented Property.*]

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

146 (B) The museum or archives repository that wishes to acquire title to undocumented  
147 property described in part (A) of this section shall provide public notice in the manner described  
148 in section 5 of this Act.  
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150 Section 8. [*Presumption of Gift to Museum.*] Effective [August 1, 2004], property that is  
151 found in or on property controlled by the museum; is from an unknown source; and might  
152 reasonably be assumed to have been intended as a gift to the museum, is conclusively presumed  
153 to be a gift to the museum if ownership of the property is not claimed by a person within [90  
154 days] of its discovery.  
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156 Section 9. [*Conservation of Museum Property.*]

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

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

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

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

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

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

174 (2) exercised reasonable care in the choice and application of conservation  
175 measures.  
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177 Section 10. [*Severability.*] [Insert severability clause.]

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179 Section 11. [*Repealer.*] [Insert repealer clause.]

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181 Section 12. [*Effective Date.*] [Insert effective date.]