

MUSEUM PROPERTY

Footnotes

Retroactive applicability; see § 305B.13

305B.1 Short title.

This chapter may be cited as the "*Museum Property Act*".

88 Acts, ch 1117, §1

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. "*Loan*" means a deposit of property 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.

88 Acts, ch 1117, §2

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. 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 three consecutive weeks in a newspaper of general circulation 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.

88 Acts, ch 1117, §3

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.

88 Acts, ch 1117, §4

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. The department of cultural affairs shall adopt by rule a form for notice of injury or loss, no later than January 1, 1989, and shall distribute the rule and form to all identified museums in Iowa within sixty days after adoption of the rule. 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.

88 Acts, ch 1117, §5

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 one year 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."

88 Acts, ch 1117, §6

305B.7 Acquiring title to undocumented property.

1. A museum may acquire 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, by giving notice of acquisition of title to undocumented property.

2. If a lender or claimant does not respond to the notice provided in subsection 1 within three years by filing a notice of intent to retain an interest in property on loan, the museum's title to the property becomes uncontestable under section 305B.9.

3. A notice of acquisition of title 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 intends to acquire title to the below described property: (general description of the property). If you claim ownership or other legal interest in this property 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 waived any claim you may have had to the property."

88 Acts, ch 1117, §7

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. The department of cultural affairs shall adopt by rule a form for notice of intent to preserve an interest in property on loan to a museum. The form shall satisfy the requirements of subsection 1 and shall notify the claimant of the rights and procedures to preserve an interest in museum property. The form shall also facilitate recordkeeping and record retrieval by a museum. At a minimum the form shall provide 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.

88 Acts, ch 1117, §8

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 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 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.

88 Acts, ch 1117, §9

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.

88 Acts, ch 1117, §10

305B.11 Required museum record- keeping.

On or after January 1, 1989, a museum shall at minimum maintain and retain the following records, either 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.

2. The loan agreement, if any, and a receipt or ledger for property on loan.
3. A receipt or ledger for property delivered to an owner or claimant.
4. Records containing the following information, as available, for property in the museum's possession:
 - a. Lender's name, address, and phone number.
 - b. Claimant's name, address, and phone number.
 - c. Donor's name, address, and phone number.
 - d. Seller's name, address, and phone number.
 - e. The nature and terms of the transaction (loan for specified term, loan for unspecified term, donation, purchase, etc.).
 - f. The beginning date of the loan period or transaction date.

The department of cultural affairs may by rule determine the minimum form and substance of recordkeeping by museums with regard to museum property to implement this chapter.

88 Acts, ch 1117, §11

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.

88 Acts, ch 1117, §12

305B.13 Retroactive applicability.

1. 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.
2. 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.

88 Acts, ch 1117, §13