

Reprinted 3/87

Senate File 370

JUDICIARY: Fraise, Chair; Horn and Drake

Re Pass 3/19/87 (p. 793)

Senate File 370

SENATE FILE 370

State Government: Beatty, Chair; Hammond and Hanson of Delaware.

BY VANDE HOEF and LLOYD-JONES

Passed Senate, Date 3-23-87 (p. 865) Passed House, Date 2/19/88 (p. 403)

Vote: Ayes 47 Nays 0 Vote: Ayes 95 Nays 0

Approved April 27, 1988

A BILL FOR

1 An Act relating to museums, providing for the disposition of
 2 loaned or undocumented property in the possession of a museum,
 3 notice, reclamation of loaned or undocumented property and
 4 statutes of limitations for actions against museums;
 5 prescribing museum obligations; prescribing lender and
 6 claimant obligations to museums; and providing for the
 7 retroactive applicability of certain sections of the Act.
 8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

55

SENATE FILE 370

S-3207

1 Amend Senate File 370 as follows:
 2 1. Page 1, by striking lines 17 through 19 and inserting
 3 in lieu thereof the following: "artistic, scientific,
 4 or cultural value."

S-3207

Filed March 20, 1987
Adopted 3/23/87 (p. 864)

BY RICHARD VANDE HOEF

SENATE FILE 370

S-3210

1 Amend Senate File 370 as follows:
 2 1. Page 6, by striking line 20.

S-3210

Filed March 20, 1987
Adopted 3/23 (p. 864)

BY TOM MANN, JR.
JULIA GENTLEMAN

1 Section 1. NEW SECTION. 305B.1 SHORT TITLE.

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

3 Sec. 2. NEW SECTION. 305B.2 DEFINITIONS.

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

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

13 2. "Loan" means a deposit of property not accompanied by a
14 transfer of title to the property.

15 3. "Property" means a tangible object, animate or
16 inanimate, under a museum's care which has intrinsic historic,
17 artistic, scientific, or cultural value, except that it does
18 not include botanical or zoological specimens loaned to a
19 museum for scientific research purposes.

20 4. "Undocumented property" means property in the
21 possession of a museum for which the museum has no reasonable
22 means of determining the property's owner.

23 5. "Lender" means a person whose name appears on the
24 records of the museum as the person legally entitled to
25 property held or owing by the museum.

26 6. "Lender's address" means the most recent address as
27 shown on the museum's records pertaining to the property on
28 loan from the lender.

29 7. "Claimant" means a person who files a notice of intent
30 to preserve an interest in property on loan to a museum as
31 provided in section 305B.8.

32 8. "Claimant's address" means the most recent address as
33 shown on a notice of intent to preserve an interest in
34 property on loan to a museum, or notice of change of address,
35 which notice is on file with the museum.

1 Sec. 3. NEW SECTION. 305B.3 BASIC NOTICE REQUIREMENTS.

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

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

13 2. MAILED NOTICE. All notices given by a museum pursuant
14 to this chapter shall be mailed to the lender's, and any
15 claimant's, last known address by restricted certified mail,
16 as defined in section 618.15. Notice is deemed given if the
17 museum receives proof of receipt within thirty days of mailing
18 the notice.

19 3. PUBLISHED NOTICE. If the museum does not know the
20 identity of the lender, or does not have an address for the
21 lender, or if proof of receipt is not received by the museum
22 within thirty days of mailing a notice under subsection 2,
23 notice is deemed given if the museum publishes notice at least
24 once a week for three consecutive weeks in a newspaper of
25 general circulation in both of the following:

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

29 Sec. 4. NEW SECTION. 305B.4 CONSERVATION OR DISPOSAL OF
30 LOANED PROPERTY.

31 1. Unless there is a written loan agreement to the
32 contrary, a museum may apply conservation measures to or
33 dispose of property on loan to the museum without the lender's
34 or claimant's permission, or formal notice, if immediate
35 action is required to protect the property on loan or other

1 property in the custody of the museum or if the property on
2 loan is a hazard to the health and safety of the public or the
3 museum staff and if either of the following apply:

4 a. The museum is unable to reach the lender or claimant at
5 the lender's or claimant's last known address or phone number
6 after reasonable efforts given the circumstances.

7 b. The lender or claimant does not respond or will not
8 agree to the protective measures the museum recommends, yet is
9 unwilling or unable to terminate the loan and retrieve the
10 property.

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

15 a. Has a lien on the property and on the proceeds of any
16 disposition of the property for the costs incurred by the
17 museum.

18 b. Is not liable for injury to or loss of the property if
19 the museum:

20 (1) Had a reasonable belief at the time the action was
21 taken that the action was necessary to protect the property on
22 loan or other property in the custody of the museum or that
23 the property on loan was a hazard to the health and safety of
24 the public or the museum staff.

25 (2) Exercised reasonable care in the choice and
26 application of conservation measures.

27 Sec. 5. NEW SECTION. 305B.5 NOTICE OF INJURY OR LOSS.

28 A museum shall give a lender or claimant prompt notice of
29 any known injury to or loss of property on loan.

30 Sec. 6. NEW SECTION. 305B.6 NOTICE OF INTENT TO
31 TERMINATE LOAN -- ACQUIRING TITLE TO LOANED PROPERTY.

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

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

1 term.

2 b. The property was loaned to the museum for a specified
3 term, and that term has expired.

4 2. If the lender or claimant does not respond to the
5 notice provided in subsection 1 within three years by filing a
6 notice of intent to preserve an interest in property on loan,
7 the museum acquires title to the property.

8 3. A notice of intent to terminate a loan must include a
9 statement containing substantially the following information:

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

17 Sec. 7. NEW SECTION. 305B.7 ACQUIRING TITLE TO
18 UNDOCUMENTED PROPERTY.

19 1. A museum may acquire title to undocumented property
20 held by a museum for seven years or longer with no valid claim
21 or written contact by any person, all verifiable through the
22 museum's written records, by giving notice of acquisition of
23 title to undocumented property.

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

29 3. A notice of acquisition of title must include a
30 statement containing substantially the following information:

31 "The records of (name of museum) fail to indicate the owner
32 of record of certain property in its possession. The museum
33 intends to acquire title to the below described property:
34 (general description of the property). If you claim ownership
35 or other legal interest in this property you must contact the

1 institution, establish your ownership of the property pursuant
2 to section 305B.8, and make arrangements to collect the
3 property. If you fail to do so promptly, you will be
4 considered to have waived any claim you may have had to the
5 property."

6 Sec. 8. NEW SECTION. 305B.8 NOTICE OF INTENT TO PRESERVE
7 AN INTEREST IN PROPERTY -- REQUIREMENTS -- FORM -- DISCLOSURE.

8 1. A notice of intent to preserve an interest in property
9 on loan to a museum filed pursuant to this chapter shall be in
10 writing and contain all of the following information:

11 a. A description of the property, adequate to enable the
12 museum to identify the property.

13 b. Documentation sufficient to establish the claimant as
14 owner of the property.

15 c. A statement, respecting to the truth, to the best of the
16 signer's knowledge, of all information included in or with the
17 notice.

18 d. The signature, under penalty of perjury, of the
19 claimant or a person authorized to act on behalf of the
20 claimant.

21 2. The museum need not retain a notice which does not meet
22 the requirements set forth in subsection 1. If, however, the
23 museum does not intend to retain a notice for this reason, the
24 museum shall promptly notify the claimant at the address given
25 on the notice that the museum believes the notice is
26 ineffective to preserve an interest, and the reasons for the
27 insufficiency. The fact that a museum retains a notice under
28 section 305B.8 does not mean that the museum accepts the
29 sufficiency or accuracy of the notice or that the notice is
30 effective to preserve an interest in property on loan to the
31 museum.

32 3. A notice of intent to preserve an interest in property
33 on loan to a museum which is substantially the following
34 form shall contain the information and attachments described
35 in the requirements or specifications:

1 "NOTICE OF INTENT TO PRESERVE AN INTEREST IN
2 PROPERTY ON LOAN TO A MUSEUM

3 TO THE LENDER: Iowa Code Chapter 305B requires that you
4 notify the museum promptly in writing of any change of address
5 or ownership of the property on loan to a museum. If the
6 museum is unable to contact you regarding your loan, you may
7 lose rights in the loaned property. If you choose to file
8 this form with the museum to preserve your interest in the
9 property, the museum is required to maintain it, or a copy of
10 it, for 25 years. For full details, see Iowa Code Chapter
11 305B.

12 TO THE MUSEUM: You are notified that the undersigned
13 claims an interest in the property described in this notice.

14 CLAIMANT:

15 Name: _____

16 Address: _____

17 _____

18 _____

19 Telephone: () - _____

20 Social Security Number (optional): _____

21 MUSEUM:

22 Museum Name: _____

23 Date Property Loaned: _____

24 INTEREST IN PROPERTY:

25 If you are not the original lender, describe the origin and
26 nature of your interest in the property and attach a copy of
27 any documentation creating your interest:

28 _____

29 _____

30 _____

31 _____

32 DESCRIPTION OF PROPERTY:

33 Unless an accurate, legible copy of the loan receipt is
34 attached, give a detailed description of the claimed property,
35 including its nature and general characteristics and the

1 museum registration number assigned to the property, if known,
2 and attach any documentary evidence you have establishing the
3 loan:

4 Registration #: _____

5 Description: _____

6 _____

7 _____

8 (Attach additional sheets if necessary.)

9 I understand that I must promptly notify the museum in
10 writing of any change in address or change in ownership of the
11 loaned property.

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

14 Signed: _____ Date: _____

15 (claimant)

16 OR

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

20 Signed: _____ Date: _____

21 (claimant's representative)

22 RECEIPT FOR NOTICE OF INTENT TO PRESERVE AN

23 INTEREST IN PROPERTY

24 (For use by museum)

25 Notice received by: _____

26 Date of receipt: _____

27 Copy of receipt returned to claimant:

28 By: _____

29 Date: _____

30 SEC. 9. NEW SECTION. 305B.9 LIMITATIONS ON ACTIONS
31 AGAINST MUSEUMS.

32 1. An action shall not be brought against a museum for
33 damages because of injury to or loss of property loaned to the
34 museum more than three years from the date the museum gives
35 written notice of the injury or loss of property.

1 years from the date of the injury or loss, whichever occurs
2 earlier.

3 2. An action shall not be brought against a museum to
4 recover property on loan more than three years from the date
5 the museum gives the lender or claimant notice of its intent
6 to terminate the loan or notice of acquisition of title to
7 undocumented property.

8 3. An action shall not be brought against a museum to
9 recover property on loan more than twenty-five years from the
10 date of the last written contact between the lender or
11 claimant and the museum.

12 4. A lender or claimant is considered to have donated
13 loaned property to the museum if the lender fails to file an
14 action to recover the property on loan to the museum within
15 the periods specified in subsections 1 through 3.

16 5. A person who purchases property from a museum acquires
17 good title to the property if the museum represents that it
18 has acquired title to the property pursuant to subsection 4.

19 6. Notwithstanding subsections 3 and 4, a lender or
20 claimant who was not given notice as provided in this chapter
21 that the museum intended to terminate a loan, as provided in
22 section 305B.6, and who proves that the museum received an
23 adequate notice of intent to preserve an interest in loaned
24 property within the twenty-five years immediately preceding
25 the filing of an action to recover the property, may recover
26 the property or, if the property has been disposed of, the
27 reasonable value of the property at the time it was disposed
28 of plus interest at the legal rate.

29 7. A museum is not liable at any time, in the absence of a
30 court order, for returning property to the original lender,
31 even if a claimant other than the lender has filed a notice of
32 intent to preserve an interest in property. If persons claim
33 competing interests in property in the possession of a museum,
34 the burden is upon the claimants to prove their interest in an
35 action in equity initiated by a claimant. A museum is not

1 liable at any time for returning property to an uncontested
2 claimant who produced reasonable proof of ownership pursuant
3 to section 305B.8.

4 Sec. 10. NEW SECTION. 305B.10 MUSEUM OBLIGATIONS.

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

7 1. The museum shall retain all written records regarding
8 the property for at least three years from the date of taking
9 title pursuant to this chapter.

10 2. The museum shall keep written records on all loaned
11 property acquired pursuant to section 305B.6. Records shall
12 contain the following information:

13 a. Lender's name, address, and phone number.

14 b. Claimant's name, address, and phone number.

15 c. The nature and terms of the loan.

16 d. The beginning date of the loan period, if known.

17 3. A museum accepting a loan of property on or after
18 January 1, 1988, shall inform the lender in writing at the
19 time of the loan of the provisions of this chapter. A copy of
20 the form notice prescribed in section 305B.6, or a citation to
21 this chapter, is adequate for this purpose.

22 4. The museum is responsible for notifying a lender or
23 claimant of the museum's change of address or dissolution.

24 Sec. 11. NEW SECTION. 305B.11 REQUIRED MUSEUM RECORD
25 KEEPING.

26 On or after January 1, 1988, a museum shall at minimum
27 maintain and retain the following records, either originals or
28 accurate copies, for a period of not less than twenty-five
29 years:

30 1. A notice of intent to preserve an interest in property.

31 2. The loan agreement, if any, and a receipt or ledger for
32 property on loan.

33 3. A receipt or ledger for property delivered to an owner
34 or claimant.

35 4. Records containing the following information, as

1 available, for property in the museum's possession:

2 a. Lender's name, address, and phone number.

3 b. Claimant's name, address, and phone number.

4 c. Donor's name, address, and phone number.

5 d. Seller's name, address, and phone number.

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

9 f. The beginning date of the loan period or transaction
10 date.

11 Sec. 12. NEW SECTION. 305B.12 LENDER OBLIGATIONS TO
12 MUSEUM.

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

18 2. The lender or claimant of property on loan to a museum
19 may file with the museum a notice of intent to preserve an
20 interest in the property as provided for in section 305B.8.
21 The filing of a notice of intent to preserve an interest in
22 property on loan to a museum does not validate or make
23 enforceable any claim which would be extinguished under the
24 terms of a written agreement, or which would otherwise be
25 invalid or unenforceable.

26 Sec. 13. NEW SECTION. 305B.13 RETROACTIVE APPLICABILITY.

27 1. Sections 305B.1 through 305B.8 are retroactively
28 applicable to all property in the possession of a museum
29 within the state on or after January 1, 1987.

30 2. Section 305B.9 is retroactive to all claims filed on or
31 after January 1, 1987, for any of the following causes of
32 action against a museum, or remedies:

33 a. Damages for loss of or damage to property or
34 undocumented property.

35 b. Recovery of property or undocumented property.

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EXPLANATION

This bill provides a legal mechanism for a museum to acquire title to property in the museum's possession for which it has no record of the original lender, or the nature of the original acquisition (loan, donation, or purchase), or in cases where the current owner cannot be located, or does not desire to take possession or responsibility for the property. It provides procedures for conservation measures for and disposal of loaned property, and assigns responsibility for costs incurred by a museum to conserve or dispose of property belonging to others. The bill contains statutes of limitations for actions against a museum to recover property or damages. It provides a procedure for a person to provide notice to a museum of the person's intention to preserve an interest in property. It provides for retroactive effect for certain provisions.

Section 1 provides that the Act may be cited as the "Museum Property Act".

Section 2 provides key definitions.

Section 3 contains basic notice requirements and provides for written notice by restricted certified mail to a known lender or claimant, and published notice when mailed notice is ineffective or impossible.

Section 4 permits a museum to take immediate conservation or disposal measures when circumstances warrant, and establishes legal responsibility for expenses incurred by a museum to conserve or dispose of the property of others.

Section 5 provides for notice to a lender or claimant of any known injury to or loss of property on loan.

Section 6 permits a museum to terminate a loan or acquire property on loan, if the property was loaned for an indefinite term or a specified term which has expired. Basic notice standards from section 4 apply along with a notice of the lender's failure to respond.

Section 7 permits a museum to acquire clear title to

1 undocumented property in the possession of the museum.

2 Section 7 includes notice requirements for the benefit of
3 potential claimants.

4 Section 8 provides for a "notice of intent to preserve an
5 interest in property" which a claimant may file to preserve or
6 assert a claim to loaned or undocumented property in a
7 museum's possession.

8 Section 9 provides certain statutes of limitations on
9 claims against museums for recovery of property or damages.

10 Section 10 imposes certain obligations upon a museum
11 intending to take title to loaned or undocumented property,
12 including requirements to keep certain records and disclose
13 the existence of the "Museum Property Act" to new lenders
14 after January 1, 1988.

15 Section 11 requires museums to keep certain minimum records
16 to aid in the identification of the owner of property in the
17 possession of the museum.

18 Section 12 imposes certain obligations on lenders and
19 claimants, including the duty to notify the museum of a change
20 of address or change in ownership of the property to
21 facilitate notice procedures.

22 Section 13 makes certain provisions retroactive.

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Amended House Bill 5080, Do Pass 2/12 (p. 320)

SENATE FILE 370
BY VANDE HOEF and LLOYD-JONES

(AS AMENDED AND PASSED BY THE SENATE MARCH 23, 1987)
_____ - New Language by the Senate
* - Language Stricken by the Senate

Passed Senate, Date 2/29/87 (p. 550) Passed House, Date 2/17/87 (p. 402)
Vote: Ayes 47 Nays 0 Vote: Ayes 95 Nays 0
Approved April 27, 1988
Repassed House 4/4/88 (p. 1264)
95-0

A BILL FOR

1 An Act relating to museums, providing for the disposition of
2 loaned or undocumented property in the possession of a museum,
3 notice, reclamation of loaned or undocumented property and
4 statutes of limitations for actions against museums;
5 prescribing museum obligations; prescribing lender and
6 claimant obligations to museums; and providing for the
7 retroactive applicability of certain sections of the Act.
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9 purposes, which owns, borrows, cares for, exhibits, studies,
10 archives, or catalogs property. "Museum" includes, but is not
11 limited to, historical societies, historic sites or landmarks,
12 parks, monuments, and libraries.

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14 transfer of title to the property.

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16 inanimate, under a museum's care which has intrinsic historic,
17 artistic, scientific, or cultural value.

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19 possession of a museum for which the museum has no reasonable
20 means of determining the property's owner.

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22 records of the museum as the person legally entitled to
23 property held or owing by the museum.

24 6. "Lender's address" means the most recent address as
25 shown on the museum's records pertaining to the property on
26 loan from the lender.

27 7. "Claimant" means a person who files a notice of intent
28 to preserve an interest in property on loan to a museum as
29 provided in section 305B.8.

30 8. "Claimant's address" means the most recent address as
31 shown on a notice of intent to preserve an interest in
32 property on loan to a museum, or notice of change of address,
33 which notice is on file with the museum.

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35 1. CONTENTS. In addition to any other information

1 prescribed for a particular notice, all notices given pursuant
2 to this chapter shall contain the following information:

3 a. Lender's name, or claimant's name, as appropriate.

4 b. Lender's last known address, or claimant's last known
5 address, as appropriate.

6 c. Brief description of the property on loan.

7 d. Date of the loan, if known.

8 e. Name of the museum.

9 f. Name, address, and telephone number of the appropriate
10 person or office to be contacted regarding the property.

11 2. MAILED NOTICE. All notices given by a museum pursuant
12 to this chapter shall be mailed to the lender's, and any
13 claimant's, last known address by restricted certified mail,
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19 lender, or if proof of receipt is not received by the museum
20 within thirty days of mailing a notice under subsection 2,
21 notice is deemed given if the museum publishes notice at least
22 once a week for three consecutive weeks in a newspaper of
23 general circulation in both of the following:

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25 b. The county of the lender's or claimant's address, if
26 any.

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33 action is required to protect the property on loan or other
34 property in the custody of the museum or if the property on
35 loan is a hazard to the health and safety of the public or the

1 museum staff and if either of the following apply:

2 a. The museum is unable to reach the lender or claimant at
3 the lender's or claimant's last known address or phone number
4 after reasonable efforts given the circumstances.

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6 agree to the protective measures the museum recommends, yet is
7 unwilling or unable to terminate the loan and retrieve the
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14 disposition of the property for the costs incurred by the
15 museum.

16 b. Is not liable for injury to or loss of the property if
17 the museum:

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25 museum's title to the property becomes uncontestable under
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33 or other legal interest in this property you must contact the
34 institution, establish your ownership of the property pursuant
35 to section 305B.8, and make arrangements to collect the

1 property. If you fail to do so promptly, you will be
2 considered to have waived any claim you may have had to the
3 property."

4 Sec. 8. NEW SECTION. 305B.8 NOTICE OF INTENT TO PRESERVE
5 AN INTEREST IN PROPERTY -- REQUIREMENTS -- FORM -- DISCLOSURE.

6 1. A notice of intent to preserve an interest in property
7 on loan to a museum filed pursuant to this chapter shall be in
8 writing and contain all of the following information:

9 a. A description of the property adequate to enable the
10 museum to identify the property.

11 b. Documentation sufficient to establish the claimant as
12 owner of the property.

13 c. A statement attesting to the truth, to the best of the
14 signer's knowledge, of all information included in or with the
15 notice.

16 d. The signature, under penalty of perjury, of the
17 claimant or a person authorized to act on behalf of the
18 claimant.

19 2. The museum need not retain a notice which does not meet
20 the requirements set forth in subsection 1. If, however, the
21 museum does not intend to retain a notice for this reason, the
22 museum shall promptly notify the claimant at the address given
23 on the notice that the museum believes the notice is
24 ineffective to preserve an interest, and the reasons for the
25 insufficiency. The fact that a museum retains a notice under
26 section 305B.12 does not mean that the museum accepts the
27 sufficiency or accuracy of the notice or that the notice is
28 effective to preserve an interest in property on loan to the
29 museum.

30 3. A notice of intent to preserve an interest in property
31 on loan to a museum which is in substantially the following
32 form, and contains the information and attachments described,
33 satisfies the requirements of subsection 1:

34 "NOTICE OF INTENT TO PRESERVE AN INTEREST IN
35 PROPERTY ON LOAN TO A MUSEUM

1 TO THE LENDER: Iowa Code Chapter 305B requires that you
2 notify the museum promptly in writing of any change of address
3 or ownership of the property on loan to a museum. If the
4 museum is unable to contact you regarding your loan, you may
5 lose rights in the loaned property. If you choose to file
6 this form with the museum to preserve your interest in the
7 property, the museum is required to maintain it, or a copy of
8 it, for 25 years. For full details, see Iowa Code Chapter
9 305B.

10 TO THE MUSEUM: You are notified that the undersigned
11 claims an interest in the property described in this notice.

12 CLAIMANT:

13 Name: _____

14 Address: _____

15 _____

16 _____

17 Telephone: () - _____

18 MUSEUM:

19 Museum Name: _____

20 Date Property Loaned: _____

21 INTEREST IN PROPERTY:

22 If you are not the original lender, describe the origin and
23 nature of your interest in the property and attach a copy of
24 any documentation creating your interest:

25 _____

26 _____

27 _____

28 _____

29 DESCRIPTION OF PROPERTY:

30 Unless an accurate, legible copy of the loan receipt is
31 attached, give a detailed description of the claimed property,
32 including its nature and general characteristics and the
33 museum registration number assigned to the property, if known,
34 and attach any documentary evidence you have establishing the
35 loan:

S.F. 370 H.F. _____

1 Registration #: _____

2 Description: _____

3 _____

4 _____

5 (Attach additional sheets if necessary.)

6 I understand that I must promptly notify the museum in
7 writing of any change in address or change in ownership of the
8 loaned property.

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

11 Signed: _____ Date: _____

12 (claimant)

13 OR

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

17 Signed: _____ Date: _____

18 (claimant's representative)

19 RECEIPT FOR NOTICE OF INTENT TO PRESERVE AN

20 INTEREST IN PROPERTY

21 (For use by museum)

22 Notice received by: _____

23 Date of receipt: _____

24 Copy of receipt returned to claimant:

25 By: _____

26 Date: _____"

27 Sec. 9. NEW SECTION. 305B.9 LIMITATIONS ON ACTIONS

28 AGAINST MUSEUMS.

29 1. An action shall not be brought against a museum for
30 damages because of injury to or loss of property loaned to the
31 museum more than three years from the date the museum gives
32 the lender or claimant notice of the injury or loss or ten
33 years from the date of the injury or loss, whichever occurs
34 earlier.

35 2. An action shall not be brought against a museum to

1 recover property on loan more than three years from the date
2 the museum gives the lender or claimant notice of its intent
3 to terminate the loan or notice of acquisition of title to
4 undocumented property.

5 3. An action shall not be brought against a museum to
6 recover property on loan more than twenty-five years from the
7 date of the last written contact between the lender or
8 claimant and the museum.

9 4. A lender or claimant is considered to have donated
10 loaned property to the museum if the lender fails to file an
11 action to recover the property on loan to the museum within
12 the periods specified in subsections 1 through 3.

13 5. A person who purchases property from a museum acquires
14 good title to the property if the museum represents that it
15 has acquired title to the property pursuant to subsection 4.

16 6. Notwithstanding subsections 3 and 4, a lender or
17 claimant who was not given notice as provided in this chapter
18 that the museum intended to terminate a loan, as provided in
19 section 305B.6, and who proves that the museum received an
20 adequate notice of intent to preserve an interest in loaned
21 property within the twenty-five years immediately preceding
22 the filing of an action to recover the property, may recover
23 the property or, if the property has been disposed of, the
24 reasonable value of the property at the time it was disposed
25 of plus interest at the legal rate.

26 7. A museum is not liable at any time, in the absence of a
27 court order, for returning property to the original lender,
28 even if a claimant other than the lender has filed a notice of
29 intent to preserve an interest in property. If persons claim
30 competing interests in property in the possession of a museum,
31 the burden is upon the claimants to prove their interest in an
32 action in equity initiated by a claimant. A museum is not
33 liable at any time for returning property to an uncontested
34 claimant who produced reasonable proof of ownership pursuant
35 to section 305B.8.

1 Sec. 10. NEW SECTION. 305B.10 MUSEUM OBLIGATIONS.

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

4 1. The museum shall retain all written records regarding
5 the property for at least three years from the date of taking
6 title pursuant to this chapter.

7 2. The museum shall keep written records on all loaned
8 property acquired pursuant to section 305B.6. Records shall
9 contain the following information:

10 a. Lender's name, address, and phone number.

11 b. Claimant's name, address, and phone number.

12 c. The nature and terms of the loan.

13 d. The beginning date of the loan period, if known.

14 3. A museum accepting a loan of property on or after
15 January 1, 1988, shall inform the lender in writing at the
16 time of the loan of the provisions of this chapter. A copy of
17 the form notice prescribed in section 305B.8, or a citation to
18 this chapter, is adequate for this purpose.

19 4. The museum is responsible for notifying a lender or
20 claimant of the museum's change of address or dissolution.

21 Sec. 11. NEW SECTION. 305B.11 REQUIRED MUSEUM RECORD
22 KEEPING.

23 On or after January 1, 1988, a museum shall at minimum
24 maintain and retain the following records, either originals or
25 accurate copies, for a period of not less than twenty-five
26 years:

27 1. A notice of intent to preserve an interest in property.

28 2. The loan agreement, if any, and a receipt or ledger for
29 property on loan.

30 3. A receipt or ledger for property delivered to an owner
31 or claimant.

32 4. Records containing the following information, as
33 available, for property in the museum's possession:

34 a. Lender's name, address, and phone number.

35 b. Claimant's name, address, and phone number.

- 1 c. Donor's name, address, and phone number.
- 2 d. Seller's name, address, and phone number.
- 3 e. The nature and terms of the transaction (loan for
- 4 specified term, loan for unspecified term, donation, purchase,
- 5 etc.).
- 6 f. The beginning date of the loan period or transaction
- 7 date.

8 Sec. 12. NEW SECTION. 305B.12 LENDER OBLIGATIONS TO
9 MUSEUM.

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

15 2. The lender or claimant of property on loan to a museum
16 may file with the museum a notice of intent to preserve an
17 interest in the property as provided for in section 305B.8.
18 The filing of a notice of intent to preserve an interest in
19 property on loan to a museum does not validate or make
20 enforceable any claim which would be extinguished under the
21 terms of a written agreement, or which would otherwise be
22 invalid or unenforceable.

23 Sec. 13. NEW SECTION. 305B.13 RETROACTIVE APPLICABILITY.

24 1. Sections 305B.1 through 305B.8 are retroactively
25 applicable to all property in the possession of a museum
26 within the state on or after January 1, 1987.

27 2. Section 305B.9 is retroactive to all claims filed on or
28 after January 1, 1987, for any of the following causes of
29 action against a museum, or remedies:

30 a. Damages for loss of or damage to property or
31 undocumented property.

32 b. Recovery of property or undocumented property.

33
34
35

SENATE FILE 370

H-5080

1 Amend Senate File 370, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 1, lines 19 and 20, by striking the words
4 "has no reasonable means of determining the property's
5 owner" and inserting the following: "cannot determine
6 by reference to the museum's records the property's
7 owner".

8 2. Page 3, line 1, by striking the word "either"
9 and inserting the following: "any".

10 3. Page 3, by striking lines 4 and 5, and
11 inserting the following: "if action is to be taken
12 within more than three days but less than one week
13 from the time the museum determined action was
14 necessary.

15 b. The museum is unable to reach the lender or
16 claimant at the lender's or claimant's last known
17 phone number prior to taking action if the action is
18 to be taken within three days or less from the time
19 the museum determined action was necessary.

20 c. The lender or claimant does not respond or will
21 not".

22 4. Page 3, line 27, by inserting after the word
23 "loan." the following: "The department of cultural
24 affairs shall adopt by rule a form for notice of
25 injury or loss, no later than January 1, 1989, and
26 shall distribute the rule and form to all identified
27 museums in Iowa within sixty days after adoption of
28 the rule. The notice shall be mailed to the lender's
29 or claimant's last known address in event of injury or
30 loss of property on loan to the museum. Published
31 notice of injury or loss of undocumented property
32 shall not be required."

33 5. Page 4, by striking line 3, and inserting the
34 following: "notice of termination provided under
35 subsection 1 within one year by filing a".

36 6. By striking page 5, line 30 through page 7,
37 line 26, and inserting the following:

38 "3. The department of cultural affairs shall adopt
39 by rule a form for notice of intent to preserve an
40 interest in property on loan to a museum. The form
41 shall satisfy the requirements of subsection 1 and
42 shall notify the claimant of the rights and procedures
43 to preserve an interest in museum property. The form
44 shall also facilitate recordkeeping and record
45 retrieval by a museum. At a minimum the form shall
46 provide a place for recording evidence of receipt of a
47 notice by a museum, including the date of receipt,
48 signature of the person receiving the notice, and the
49 date on which a copy of the receipt is returned to the
50 claimant."

H-5080

Page Two

- 1 7. Page 8, line 1, by striking the words "three
2 years" and inserting the following: "one year".
- 3 8. Page 8, line 6, by striking the word "twenty-
4 five" and inserting the following: "seven".
- 5 9. Page 8, line 8, by inserting after the word
6 "museum" the following: "as evidenced by the museum's
7 records".
- 8 10. Page 8, line 21, by inserting after the word
9 "property" the following: ", which satisfies all of
10 the requirements of section 305B.8,".
- 11 11. Page 8, line 21, by striking the word
12 "twenty-five" and inserting the following: "seven".
- 13 12. Page 9, line 15, by striking the figure
14 "1988" and inserting the following: "1989".
- 15 13. Page 9, line 23, by striking the figure
16 "1988" and inserting the following: "1989".
- 17 14. Page 10, by inserting after line 7, the
18 following:
19 "The department of cultural affairs may by rule
20 determine the minimum form and substance of
21 recordkeeping by museums with regard to museum
22 property to implement this chapter."
- 23 15. Page 10, line 26, by striking the figure
24 "1987" and inserting the following: "1988".
- 25 16. Page 10, by striking lines 27 through 32, and
26 inserting the following:
27 "2. Section 305B.9 is effective July 1, 1989, and
28 when effective is retroactively applicable to all
29 property in the possession of the museum before July
30 1, 1989, and is prospectively applicable to all
31 property in the possession of the museum on or after
32 July 1989, for which a claim is filed on or after July
33 1, 1989."

H-5080 FILED FEBRUARY 12, 1988 BY COMMITTEE ON STATE GOVERNMENT

(Adopted 2/17/88 (p. 403))

SENATE AMENDMENT TO HOUSE AMENDMENT TO SENATE FILE 370
H-5226

- 1 Amend the House amendment S-5124, to Senate File
2 370, as amended, passed and reprinted by the Senate as
3 follows:
4 1. Page 2, line 32, by striking the word and
5 figure "July 1989" and inserting in lieu thereof the
6 following: "July 1, 1989".

H-5226 FILED MARCH 2, 1988 RECEIVED FROM THE SENATE

House concurred 4/4 (p. 1321)

HOUSE AMENDMENT TO
SENATE FILE 370

24

1 Amend Senate File 370, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 1, lines 19 and 20, by striking the words
4 "has no reasonable means of determining the property's
5 owner" and inserting the following: "cannot determine
6 by reference to the museum's records the property's
7 owner".

8 2. Page 3, line 1, by striking the word "either"
9 and inserting the following: "any".

10 3. Page 3, by striking lines 4 and 5, and
11 inserting the following: "if action is to be taken
12 within more than three days but less than one week
13 from the time the museum determined action was
14 necessary.

15 b. The museum is unable to reach the lender or
16 claimant at the lender's or claimant's last known
17 phone number prior to taking action if the action is
18 to be taken within three days or less from the time
19 the museum determined action was necessary.

20 c. The lender or claimant does not respond or will
21 not".

22 4. Page 3, line 27, by inserting after the word
23 "loan." the following: "The department of cultural
24 affairs shall adopt by rule a form for notice of
25 injury or loss, no later than January 1, 1989, and
26 shall distribute the rule and form to all identified
27 museums in Iowa within sixty days after adoption of
28 the rule. The notice shall be mailed to the lender's
29 or claimant's last known address in event of injury or
30 loss of property on loan to the museum. Published
31 notice of injury or loss of undocumented property
32 shall not be required."

33 5. Page 4, by striking line 3, and inserting the
34 following: "notice of termination provided under
35 subsection 1 within one year by filing a".

36 6. By striking page 5, line 30 through page 7,
37 line 26, and inserting the following:

38 "3. The department of cultural affairs shall adopt
39 by rule a form for notice of intent to preserve an
40 interest in property on loan to a museum. The form
41 shall satisfy the requirements of subsection 1 and
42 shall notify the claimant of the rights and procedures
43 to preserve an interest in museum property. The form
44 shall also facilitate recordkeeping and record
45 retrieval by a museum. At a minimum the form shall
46 provide a place for recording evidence of receipt of a
47 notice by a museum, including the date of receipt,
48 signature of the person receiving the notice, and the
49 date on which a copy of the receipt is returned to the
50 claimant."

S-5124 Page 2

1 7. page 8, line 1, by striking the words "three
2 years" and inserting the following: "one year".
3 8. Page 8, line 6, by striking the word "twenty-
4 five" and inserting the following: "seven".
5 9. Page 8, line 8, by inserting after the word
6 "museum" the following: "as evidenced by the museum's
7 records".

8 10. Page 8, line 21, by inserting after the word
9 "property" the following: ", which satisfies all of
10 the requirements of section 305B.8,".

11 11. Page 8, line 21, by striking the word
12 "twenty-five" and inserting the following: "seven".

13 12. Page 9, line 15, by striking the word
14 "1988" and inserting the following: "1989".

15 13. Page 9, line 23, by striking the figure
16 "1988" and inserting the following: "1989".

17 14. Page 10, by inserting after line 7, the
18 following:

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

23 15. Page 10, line 26, by striking the figure
24 "1987" and inserting the following: "1988".

25 16. Page 10, by striking lines 27 through 32, and
26 inserting the following:

27 "2. Section 305B.9 is effective July 1, 1989, and
28 when effective is retroactively applicable to all
29 property in the possession of the museum before July
30 1, 1989, and is prospectively applicable to all
31 property in the possession of the museum on or after
32 July 1989, for which a claim is filed on or after July
33 1, 1989."

S-5124

Filed February 23, 1988

Amended - non-amended also by S-5124

RECEIVED FROM THE HOUSE

SENATE FILE 370

S-5125

1 Amend the House amendment S-5124, to Senate File
2 370, as amended, passed and reprinted by the Senate as
3 follows:

4 1. Page 2, line 32, by striking the word and
5 figure "July 1989" and inserting in lieu thereof the
6 following: "July 1, 1989".

S-5125

Filed February 23, 1988

Adopted Feb 24 by S-5125

BY RICHARD VANDE HOEF

SENATE FILE 370

AN ACT

RELATING TO MUSEUMS, PROVIDING FOR THE DISPOSITION OF LOANED OR UNDOCUMENTED PROPERTY IN THE POSSESSION OF A MUSEUM, NOTICE, RECLAMATION OF LOANED OR UNDOCUMENTED PROPERTY AND STATUTES OF LIMITATIONS FOR ACTIONS AGAINST MUSEUMS; PRESCRIBING MUSEUM OBLIGATIONS; PRESCRIBING LENDER AND CLAIMANT OBLIGATIONS TO MUSEUMS; AND PROVIDING FOR THE RETROACTIVE APPLICABILITY OF CERTAIN SECTIONS OF THE ACT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. NEW SECTION. 305B.1 SHORT TITLE.

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

Sec. 2. NEW SECTION. 305B.2 DEFINITIONS.

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

1. "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.
2. "Loan" means a deposit of property not accompanied by a transfer of title to the property.
3. "Property" means a tangible object, animate or inanimate, under a museum's care which has intrinsic historic, artistic, scientific, or cultural value.
4. "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.
5. "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.

6. "Lender's address" means the most recent address as shown on the museum's records pertaining to the property on loan from the lender.

7. "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.

8. "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.

Sec. 3. NEW SECTION. 305B.3 BASIC NOTICE REQUIREMENTS.

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.

Sec. 4. NEW SECTION. 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.

Sec. 5. NEW SECTION. 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.

Sec. 6. NEW SECTION. 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."

Sec. 7. NEW SECTION. 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."

Sec. 8. NEW SECTION. 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.

Sec. 9. NEW SECTION. 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.

Sec. 10. NEW SECTION. 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.

Sec. 11. NEW SECTION. 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.

Sec. 12. NEW SECTION. 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.

Sec. 13. NEW SECTION. 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.

JO ANN ZIMMERMAN
President of the Senate

DONALD D. AVENSON
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 370, Seventy-second General Assembly.

JOHN F. DWYER
Secretary of the Senate

Approved April 27, 1988

TERRY E. BRANSTAD
Governor

SF 370