

By the Committee on Tourism and Representatives Barreiro,
Bullard, Culp, Livingston, Harrington, Melvin and D. Prewitt

1 A bill to be entitled
2 An act relating to museums; providing
3 legislative intent; providing definitions;
4 providing obligations of museums to lenders;
5 providing for notice to lenders by museums;
6 providing for termination of loans; providing
7 conditions under which a museum gains title to
8 property; providing for conservation or
9 disposal of loaned property by a museum;
10 providing an effective date.

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12 Be It Enacted by the Legislature of the State of Florida:

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14 Section 1. (1) LEGISLATIVE FINDINGS.--The people of
15 Florida benefit from having property of artistic, historic,
16 cultural, or scientific value loaned to museums in this state.
17 Loans of such property are made to these museums for study or
18 display in furtherance of their educational purposes.
19 However, problems arise in relation to loans for indefinite or
20 long terms when museums and lenders fail to maintain contact.
21 Museums routinely store and care for loaned property long
22 after loan periods have expired or should reasonably be deemed
23 expired. In such circumstances, museums have limited rights
24 to the use and treatment of unclaimed loan property, while at
25 the same time they bear substantial unreimbursed expenses,
26 including, but not limited to, costs related to storage,
27 recordkeeping, climate control, security, periodic inspection,
28 insurance, conservation, and general overhead. The
29 Legislature finds and declares that it is in the public
30 interest to establish uniform procedures governing the
31 disposition of unclaimed property on loan to museums in the

1 state and, more particularly, to encourage museums and their
2 lenders to exercise due diligence in monitoring loans, to
3 allocate fairly responsibilities between lenders and borrowing
4 museums, to establish procedures for lenders to preserve their
5 interests in property loaned to museums for indefinite or long
6 terms, and to resolve expeditiously the title to unclaimed
7 loans left in the custody of museums.

8 (2) DEFINITIONS.--

9 (a) "Lender" means an individual, corporation,
10 partnership, trust estate, or other organization or entity
11 whose name appears in the records of the museum as the entity
12 legally entitled to control property on loan to the museum.

13 (b) "Loans," "loaned," or "on loan" refers to property
14 in possession of the museum not accompanied by a transfer of
15 title to the property or accompanied by evidence that the
16 lender intended to retain title to the property and to return
17 to take physical possession of the property in the future.

18 (c) "Museum" means a public or private not-for-profit
19 agency or institution located in Florida and organized on a
20 permanent basis for primarily educational, scientific, or
21 aesthetic purposes, which owns or utilizes tangible objects,
22 cares for them, and exhibits them to the public on a regular
23 basis.

24 (d) "Property" means all tangible objects in the
25 custody of a museum which have intrinsic historical, artistic,
26 scientific, or cultural value.

27 (e) "Records" or "museum records" means documents
28 created or held by a museum in its regular course of business.

29 (f) "Unclaimed property" means property which is on
30 loan to the museum and in regard to which the lender, or
31 anyone acting legitimately on the lender's behalf, has not

1 contacted the museum for at least 25 years from the date of
2 the beginning of the loan, if the loan was for an indefinite
3 or undetermined period, or for at least 5 years after the date
4 upon which the loan for a definite period expired.

5 (3) OBLIGATIONS OF MUSEUMS TO LENDERS.--

6 (a) For property loaned to a museum after the
7 effective date of this act, the museum shall:

8 1. Make and retain a written record containing, at a
9 minimum, the lender's name, address, and telephone number, a
10 description of the property loaned in sufficient detail for
11 clear identification, including a description of the general
12 condition of the property at the time of the loan, the
13 beginning date of the loan, and the expiration date of the
14 loan.

15 2. Provide the lender with a signed receipt or loan
16 agreement containing, at a minimum, the record set forth in
17 subparagraph 1.

18 3. Inform the lender of the existence of the
19 provisions of this act and provide the lender with a copy of
20 the provisions of this act upon the lender's request.

21 (b) Regardless of the date of a loan of property, the
22 museum shall:

23 1. Update its records if a lender informs the museum
24 of a change of address or change in ownership of property
25 loaned, or if the lender and museum negotiate a change in the
26 duration of the loan.

27 2. Inform the lender of the existence of the
28 provisions of this act when renewing or updating the records
29 of an existing loan and provide the lender with a copy of the
30 provisions of this act upon the lender's request.

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1 (c) A museum shall give a lender prompt notice of any
2 known injury to or loss of property on loan.

3 (4) LENDER'S NOTICE.--

4 (a) It is the responsibility of the owner of property
5 on loan to a museum to notify the museum promptly in writing
6 of any change in the lender's address or change in ownership
7 of the property. Failure to notify the museum of these
8 changes may result in the owner's loss of rights to the
9 property.

10 (b) It is the responsibility of a successor of a
11 lender to document passage of rights of control of the
12 property in the custody of a museum.

13 1. Unless there is evidence of bad faith or gross
14 negligence, no museum shall be prejudiced by reason of any
15 failure to deal with the true owner of any loaned property.

16 2. In cases of disputed ownership of loaned property,
17 a museum shall not be held liable for its refusal to surrender
18 loaned property in its possession except in reliance upon a
19 court order or judgment.

20 (5) TERMINATION OF LOANS.--

21 (a) A museum may terminate a loan for unclaimed
22 property in its possession by making a good faith and
23 reasonable search for the identity and last known address of
24 the lender from the museum records and other records
25 reasonably available to museum staff. If the museum is able
26 to identify the lender and the lender's last known address,
27 the museum shall give notice to the lender that the loan is
28 terminated pursuant to paragraph (b). If the identity or last
29 known address of the lender remains unknown after a good faith
30 and reasonable search, the museum shall give notice by
31 publication pursuant to paragraph (c).

1 (b) A museum shall provide notice of termination of a
2 loan of unclaimed property by sending a letter by certified
3 mail to the lender at the lender's last known address giving
4 notice of termination of the loan, which shall include the
5 date of notice of termination, the name of the lender, a
6 description of the property sufficient in detail for ready
7 identification, the beginning date of the loan, if known, the
8 termination date of the loan, if applicable, the name and
9 address of the appropriate museum official to be contacted
10 regarding the loan, and a statement that within 90 days of the
11 date of the notice of termination, the lender is required to
12 remove the property from the museum or contact the designated
13 official in the museum to preserve the lender's interests in
14 the property. Failure to provide such notice will result in
15 the loss of all rights in the property pursuant to subsection
16 (6).

17 (c) If the museum is unable to identify sufficient
18 information to send notice pursuant to paragraph (b), or if a
19 signed return receipt of a notice sent by certified mail
20 pursuant to paragraph (b) is not received by the museum within
21 30 days after the notice is mailed, the museum shall publish
22 the notice of termination of loan containing all the
23 information available to the museum provided in paragraph (b)
24 at least twice, 60 or more days apart, in a publication of
25 general circulation in the county in which the museum is
26 located and the county of the lender's last known address, if
27 known.

28 (6) MUSEUM GAINING TITLE TO PROPERTY; CONDITIONS.--As
29 of the effective date of this act, a museum acquires title to
30 unclaimed property under any of the following circumstances:
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1 (a) For property for which a museum provides notice to
2 a lender in accordance with paragraph (5)(b) and a signed
3 receipt is received, if the lender of the property does not
4 contact the museum within 90 days after the date notice was
5 received.

6 (b) For property for which notice by publication is
7 made pursuant to paragraph (5)(c), if the lender or anyone
8 claiming a legal interest in the property does not contact the
9 museum within 90 days after the date of the second
10 publication.

11 (7) CONTRACTUAL OBLIGATIONS.--Notwithstanding the
12 provisions of this act, a lender and museum can bind
13 themselves to different loan provisions by written contract.

14 (8) EFFECT ON OTHER RIGHTS.--

15 (a) Property on loan to a museum shall not escheat to
16 the state under any state escheat law but shall pass to the
17 museum under the provisions of subsection (6).

18 (b) Property interests other than those specifically
19 addressed in this act are not altered by this act.

20 (9) TITLE OF PROPERTY ACQUIRED FROM A MUSEUM.--A
21 museum which acquires title to property under this act passes
22 good title to another when transferring such property with the
23 intent to pass title.

24 (10) MUSEUM LIEN FOR EXPENSES OF EXPIRED LOANS.--As of
25 the effective date of this act, a museum shall have a lien for
26 expenses for reasonable care of loaned property unclaimed
27 after the expiration date of the loan.

28 (11) CONSERVATION OR DISPOSAL OF LOANED
29 PROPERTY.--Unless there is a written loan agreement to the
30 contrary, a museum may apply conservation measures to or
31 dispose of a loaned property without a lender's permission if:

1 (a) Immediate action is required to protect the
2 property on loan or to protect other property in the custody
3 of the museum, or because the property on loan has become a
4 hazard to the health and safety of the public or the museum's
5 staff and:

6 1. The museum is unable to reach the lender at the
7 lender's last address of record, so that the museum and the
8 lender can promptly agree upon a solution; or

9 2. The lender will not agree to the protective
10 measures the museum recommends yet is unwilling or unable to
11 terminate the loan and retrieve the property.

12 (b) In the case of a lender who cannot be contacted in
13 person, the museum publishes a notice of its intent to apply
14 conservation measures or dispose of the property on loan in a
15 publication of general circulation in the county in which the
16 museum is located and the county of the lender's last known
17 address, if known, and there is no response for 60 days. Such
18 a notice shall also contain the lender's name, the lender's
19 address, if known, the date of the loan, and the name,
20 address, and telephone number of the appropriate museum office
21 to be contacted for information regarding the property on
22 loan.

23 (12) If a museum applies conservation measures to or
24 disposes of a property pursuant to subsection (11), the museum
25 shall have a lien on the property and on the proceeds from any
26 disposition thereof for the costs incurred by the museum, and
27 the museum shall not be liable for injury to or loss of the
28 property if:

29 (a) The museum had a reasonable belief at the time the
30 action was taken that the action was necessary to protect the
31 property on loan or other property in the custody of the

1 museum, or that the property on loan constituted a hazard to
2 the health and safety of the public or the museum's staff.

3 (b) The museum exercised reasonable care in the choice
4 and application of conservation measures.

5 Section 2. This act shall take effect October 1, 1997.

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8 HOUSE SUMMARY

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10 Establishes uniform procedures governing the disposition
11 of unclaimed property on loan to museums. Defines terms
12 for purposes of the act. Specifies obligations of
13 museums to lenders. Provides certain notice requirements
14 for owners of property on loan to museums. Provides that
15 a museum may terminate a loan for unclaimed property in
16 its possession by making a good faith and reasonable
17 search for the lender. Provides notice requirements.
18 Provides conditions under which museums may acquire title
19 to unclaimed property. Provides conditions under which a
20 museum may apply conservation measures to or dispose of a
21 loaned property without a lender's permission.
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