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LAW/KR

Title 46.
Subtitle 6.
Chapter
30D.(New)
Museum
Unclaimed Loan
Act
§§1-11 -
C.46:30D-1 to
46:30D-11

P.L.2011, CHAPTER 109, *approved August 18, 2011*
Senate, No. 1882 (*First Reprint*)

1 **AN ACT** concerning the disposition of unclaimed property on loan
2 to a museum and supplementing Title 52 of the Revised Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. This act shall be known and may be cited as the “Museum
8 Unclaimed Loan Act.”

9

10 2. The Legislature finds and declares that the people of the
11 State of New Jersey have an interest in the maintenance and growth
12 of museum collections and in the preservation and protection of
13 property on loan to museums within this State. Loans of property
14 that are of artistic, historic, cultural, and scientific value are made to
15 museums in furtherance of their educational and other charitable
16 purposes. When lenders fail to stay in contact with museums with
17 respect to property on loan, museums must store and care for the
18 property long after the relevant loan period has expired or should
19 reasonably be deemed expired. Museums have limited rights to the
20 use and care of such property, all the while bearing substantial costs
21 related to storage, record keeping, climate control, security,
22 periodic inspection, insurance, and general overhead.

23 Therefore, it is in the public interest to encourage both museums
24 and lenders to use due diligence in monitoring property on loan;
25 resolve the issue of title to property on loan that is unclaimed and
26 remains in the custody of museums; and allocate fairly the
27 responsibilities between lenders and museums.

28 The purpose of this act, the Museum Unclaimed Loan Act, is to
29 establish standards and procedures for the disposition of unclaimed
30 property on loan to museums and this act should be interpreted in
31 accordance with these findings and declarations.

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SSG committee amendments adopted December 9, 2010.

1 3. As used in this act:

2 “Claimant” means an individual, association, partnership,
3 corporation, trust, estate, or other entity, other than the lender of
4 record, claiming or establishing title to or an interest in property
5 that is on loan to a museum.

6 “Lender” means an individual, association, partnership,
7 corporation, trust, estate, or other entity having title to or an interest
8 in property on loan to a museum.

9 “Loan” means a deposit of property with a museum for a
10 specified or unspecified period of time that does not involve a
11 transfer of title to or interest in the property.

12 “Museum” means a public or private nonprofit agency or
13 institution, and any agency or institution of the State or a political
14 subdivision of the State, located in the State of New Jersey that:

15 is organized on a permanent basis;

16 is operated primarily for cultural, aesthetic, educational,
17 scientific, or historic preservation purposes;

18 utilizes a professional staff;

19 owns, borrows, cares for, exhibits, studies, archives, or
20 catalogues tangible animate or inanimate objects; and

21 makes them available to the public on a regular basis.

22 The term “museum” includes, but is not limited to: art, history,
23 science, and natural history museums; educational institutions;
24 historical societies; historic sites; landmarks; parks; archives;
25 monuments; botanical gardens; arboreta; zoos; nature centers;
26 planetaria; aquaria; libraries; and technology centers.

27 “Property” means tangible animate or inanimate objects.

28

29 4. a. Unless a written loan agreement specifically provides
30 otherwise, a museum may give notice of its intent to terminate a
31 loan of property under the following circumstances:

32 the property is on loan to the museum for an indefinite period of
33 time and the lender, or anyone acting legitimately on the lender’s
34 behalf, has not contacted the museum with respect to the loan for at
35 least ten years from the beginning date of the loan; or

36 the property is on loan to the museum for a specified period of
37 time and the lender, or anyone acting legitimately on the lender’s
38 behalf, has not contacted the museum with respect to the loan for at
39 least five years from the expiration date of the loan.

40 b. Any notice given by a museum pursuant to this act for the
41 purpose of terminating a loan of property shall contain the
42 following information:

43 a description of the property in sufficient detail for ready
44 identification;

45 the last known name and address of the lender or a potential
46 claimant;

47 the date of the loan, if known, or the approximate date the
48 property was deposited with the museum;

1 the name and address of the museum; and
2 the name, address, and contact information of the appropriate
3 museum official or office to be contacted regarding the property.
4

5 5. a. If a museum intends to terminate a loan of property, the
6 museum shall give notice to the lender of its intention at the last
7 known address of the lender. The museum shall undertake a
8 reasonable search in good faith to identify the lender and the
9 lender's last known address from the museum records and other
10 records reasonably available to the museum. The same notice shall
11 be given, and the same search shall be undertaken, by the museum
12 if the museum has knowledge of the existence of a potential
13 claimant.

14 If the museum identifies the lender or a potential claimant and
15 the last known address of the lender or potential claimant, the notice
16 shall be sent to the lender or potential claimant by certified mail,
17 return receipt requested, to the last known address. Notice shall be
18 deemed given if the museum receives a return receipt showing
19 delivery to the lender or potential claimant within 30 days of the
20 mailing of the notice. The date of a notice shall be deemed to be
21 the date of delivery to the person to whom it was sent.

22 b. A notice of intent to terminate a loan of property sent to the
23 lender or a potential claimant pursuant to subsection a. of this
24 section shall include, in addition to the information required by
25 subsection b. of section 3 of this act, a statement indicating:

26 the intent of the museum to terminate the loan;

27 the date of the notice;

28 that the lender or potential claimant must contact the museum in
29 order to establish title to or an interest in the property and make
30 arrangements to take possession of the property; and

31 that failure to contact the museum within 180 days after the date
32 of the notice will result in the loss of title to or an interest in the
33 property pursuant to section 6 of this act.
34

35 6. a. If a museum intends to terminate a loan of property and
36 has been unable to give notice in accordance with section 4 of this
37 act, the museum shall give notice by publication of intent to
38 terminate a loan of property. Publication shall be by means of a
39 notice placed at least twice, 60 or more days apart, in a newspaper
40 of general circulation in the county or municipality in which the
41 museum is located and in which the last known address of the
42 lender, if known, is located ¹ [, or by the prevailing method for
43 publishing public notices at the time] ¹ .

44 b. A published notice of intent to terminate a loan shall
45 include, in addition to the information required in sections 3 and 4
46 of this act, a request that any person who has knowledge of the
47 lender or potential claimant and where the lender or potential
48 claimant may be located should provide written notice to the

1 museum. If such a written notice is received by the museum, the
2 museum shall provide the notice to the lender or potential claimant
3 required pursuant to section 4 of this act.

4 c. In addition to the method of notice designated in subsection
5 a. of this section, a museum may, whenever practicable, use an
6 emerging technology to publish such a notice in order to reach as
7 broad a circulation as possible.

8
9 7. A museum shall acquire good title to property on loan to the
10 museum under the following circumstances:

11 The museum provides, on or after the effective date of this act,
12 notice pursuant to section 4 of this act and receives a return receipt
13 showing delivery of the notice to the lender or a potential claimant
14 within 30 days of the mailing of the notice, but the museum is not
15 contacted by the lender or potential claimant within 180 days after
16 the date of the notice; and

17 The museum provides, on or after the effective date of this act,
18 notice by publication pursuant to section 5 of this act, but the
19 museum is not contacted by the lender or potential claimant within
20 180 days of the date of the second or last notice by publication.

21
22 8. a. A person who purchases or otherwise acquires property
23 from a museum acquires good title to the property if the museum
24 has acquired good title to the property in accordance with this act.

25 b. No action shall be brought against a museum, or its officers,
26 trustees, directors, employees, or agents, to recover property on
27 loan to the museum after the museum has acquired good title in
28 accordance with this act.

29 c. If there are two or more claimants to property on loan to a
30 museum, the burden shall be upon each claimant to prove title to or
31 an interest in the property. A museum shall not be held liable for
32 delivering property to an uncontested claimant who produces
33 reasonable proof of title to or an interest in the property satisfactory
34 to the museum.

35 d. Unless there is evidence of bad faith or gross negligence, a
36 museum shall not be prejudiced by reason of any failure to deal
37 with a person who has title to or an interest in property on loan to
38 the museum.

39 e. If there is a dispute as to the title to or an interest in property
40 on loan to a museum, a museum shall not be held liable for its
41 refusal to deliver the property except in accordance with a court
42 order or judgment.

43
44 9. a. For a loan of property to a museum made on or after the
45 effective date of this act, the museum shall, at the time of the loan:

46 (1) make and retain a written record containing:
47 the name, address, and telephone number of the lender,

- 1 a description of the property in sufficient detail for ready
2 identification,
3 the beginning date of the loan, and
4 the expiration date of the loan;
5 (2) provide the lender with a signed receipt or agreement
6 containing, at least, the information set forth in paragraph (1) of this
7 subsection; and
8 (3) inform the lender in writing of the existence of this act and
9 provide the lender with a copy of this act upon the lender's request.
- 10 b. With respect to any property on loan to a museum, a
11 museum shall:
12 (1) update its record if a lender informs the museum of a change
13 of address or change in the title to or interest in the property, or if
14 the lender and museum negotiate a change in the duration of the
15 loan; and
16 (2) inform the lender in writing of the existence of this act when
17 renewing or updating the record and provide the lender with a copy
18 of this act upon the lender's request.
19
- 20 10. a. The lender, or any purchaser, donee, successor, or other
21 assignee of the lender's interest in the property, shall promptly
22 notify the museum in writing of a change in the lender's address or
23 of a change in the title to or interest in the property.
24 b. A purchaser, donee, successor, or other assignee of the
25 lender's interest shall establish title to or interest in the property by
26 producing reasonable proof satisfactory to the museum.
27
- 28 11. a. A lender and museum may agree in writing to terms and
29 conditions for a loan of property different than the provisions set
30 forth in this act.
31 b. Except as otherwise specifically provided by law, regulation,
32 or rule, property on loan to a museum shall not escheat to the State
33 under any State unclaimed property law.
34 c. An interest in or right to property on loan to a museum other
35 than that specifically addressed in this act shall not be affected by
36 this act.
37 d. A museum shall have a lien for expenses incurred for the
38 reasonable care of property on loan to the museum that is unclaimed
39 after the museum complies, on or after the effective date of this act,
40 with sections 4 and 5 of this act.
41 e. This act shall apply with regard to any property loaned to a
42 museum before the effective date of this act.
43
- 44 12. This act shall take effect immediately.

S1882 [1R]

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5

Provides standards and procedures for museum to acquire title to property that is on loan to museum but has not been claimed by lender for period of time.

SENATE, No. 1882

STATE OF NEW JERSEY
214th LEGISLATURE

INTRODUCED MAY 10, 2010

Sponsored by:

Senator THOMAS H. KEAN, JR.

District 21 (Essex, Morris, Somerset and Union)

SYNOPSIS

Provides standards and procedures for museum to acquire title to property that is on loan to museum but has not been claimed by lender for period of time.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning the disposition of unclaimed property on loan
2 to a museum and supplementing Title 52 of the Revised Statutes.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. This act shall be known and may be cited as the “Museum
8 Unclaimed Loan Act.”

9
10 2. The Legislature finds and declares that the people of the
11 State of New Jersey have an interest in the maintenance and growth
12 of museum collections and in the preservation and protection of
13 property on loan to museums within this State. Loans of property
14 that are of artistic, historic, cultural, and scientific value are made to
15 museums in furtherance of their educational and other charitable
16 purposes. When lenders fail to stay in contact with museums with
17 respect to property on loan, museums must store and care for the
18 property long after the relevant loan period has expired or should
19 reasonably be deemed expired. Museums have limited rights to the
20 use and care of such property, all the while bearing substantial costs
21 related to storage, record keeping, climate control, security,
22 periodic inspection, insurance, and general overhead.

23 Therefore, it is in the public interest to encourage both museums
24 and lenders to use due diligence in monitoring property on loan;
25 resolve the issue of title to property on loan that is unclaimed and
26 remains in the custody of museums; and allocate fairly the
27 responsibilities between lenders and museums.

28 The purpose of this act, the Museum Unclaimed Loan Act, is to
29 establish standards and procedures for the disposition of unclaimed
30 property on loan to museums and this act should be interpreted in
31 accordance with these findings and declarations.

32
33 3. As used in this act:

34 “Claimant” means an individual, association, partnership,
35 corporation, trust, estate, or other entity, other than the lender of
36 record, claiming or establishing title to or an interest in property
37 that is on loan to a museum.

38 “Lender” means an individual, association, partnership,
39 corporation, trust, estate, or other entity having title to or an interest
40 in property on loan to a museum.

41 “Loan” means a deposit of property with a museum for a
42 specified or unspecified period of time that does not involve a
43 transfer of title to or interest in the property.

44 “Museum” means a public or private nonprofit agency or
45 institution, and any agency or institution of the State or a political
46 subdivision of the State, located in the State of New Jersey that:

47 is organized on a permanent basis;

1 is operated primarily for cultural, aesthetic, educational,
2 scientific, or historic preservation purposes;
3 utilizes a professional staff;
4 owns, borrows, cares for, exhibits, studies, archives, or
5 catalogues tangible animate or inanimate objects; and
6 makes them available to the public on a regular basis.

7 The term “museum” includes, but is not limited to: art, history,
8 science, and natural history museums; educational institutions;
9 historical societies; historic sites; landmarks; parks; archives;
10 monuments; botanical gardens; arboreta; zoos; nature centers;
11 planetaria; aquaria; libraries; and technology centers.

12 “Property” means tangible animate or inanimate objects.
13

14 4. a. Unless a written loan agreement specifically provides
15 otherwise, a museum may give notice of its intent to terminate a
16 loan of property under the following circumstances:

17 the property is on loan to the museum for an indefinite period of
18 time and the lender, or anyone acting legitimately on the lender’s
19 behalf, has not contacted the museum with respect to the loan for at
20 least ten years from the beginning date of the loan; or

21 the property is on loan to the museum for a specified period of
22 time and the lender, or anyone acting legitimately on the lender’s
23 behalf, has not contacted the museum with respect to the loan for at
24 least five years from the expiration date of the loan.

25 b. Any notice given by a museum pursuant to this act for the
26 purpose of terminating a loan of property shall contain the
27 following information:

28 a description of the property in sufficient detail for ready
29 identification;

30 the last known name and address of the lender or a potential
31 claimant;

32 the date of the loan, if known, or the approximate date the
33 property was deposited with the museum;

34 the name and address of the museum; and

35 the name, address, and contact information of the appropriate
36 museum official or office to be contacted regarding the property.
37

38 5. a. If a museum intends to terminate a loan of property, the
39 museum shall give notice to the lender of its intention at the last
40 known address of the lender. The museum shall undertake a
41 reasonable search in good faith to identify the lender and the
42 lender’s last known address from the museum records and other
43 records reasonably available to the museum. The same notice shall
44 be given, and the same search shall be undertaken, by the museum
45 if the museum has knowledge of the existence of a potential
46 claimant.

47 If the museum identifies the lender or a potential claimant and
48 the last known address of the lender or potential claimant, the notice

1 shall be sent to the lender or potential claimant by certified mail,
2 return receipt requested, to the last known address. Notice shall be
3 deemed given if the museum receives a return receipt showing
4 delivery to the lender or potential claimant within 30 days of the
5 mailing of the notice. The date of a notice shall be deemed to be
6 the date of delivery to the person to whom it was sent.

7 b. A notice of intent to terminate a loan of property sent to the
8 lender or a potential claimant pursuant to subsection a. of this
9 section shall include, in addition to the information required by
10 subsection b. of section 3 of this act, a statement indicating:

11 the intent of the museum to terminate the loan;

12 the date of the notice;

13 that the lender or potential claimant must contact the museum in
14 order to establish title to or an interest in the property and make
15 arrangements to take possession of the property; and

16 that failure to contact the museum within 180 days after the date
17 of the notice will result in the loss of title to or an interest in the
18 property pursuant to section 6 of this act.

19

20 6. a. If a museum intends to terminate a loan of property and
21 has been unable to give notice in accordance with section 4 of this
22 act, the museum shall give notice by publication of intent to
23 terminate a loan of property. Publication shall be by means of a
24 notice placed at least twice, 60 or more days apart, in a newspaper
25 of general circulation in the county or municipality in which the
26 museum is located and in which the last known address of the
27 lender, if known, is located, or by the prevailing method for
28 publishing public notices at the time.

29 b. A published notice of intent to terminate a loan shall
30 include, in addition to the information required in sections 3 and 4
31 of this act, a request that any person who has knowledge of the
32 lender or potential claimant and where the lender or potential
33 claimant may be located should provide written notice to the
34 museum. If such a written notice is received by the museum, the
35 museum shall provide the notice to the lender or potential claimant
36 required pursuant to section 4 of this act.

37 c. In addition to the method of notice designated in subsection
38 a. of this section, a museum may, whenever practicable, use an
39 emerging technology to publish such a notice in order to reach as
40 broad a circulation as possible.

41

42 7. A museum shall acquire good title to property on loan to the
43 museum under the following circumstances:

44 The museum provides, on or after the effective date of this act,
45 notice pursuant to section 4 of this act and receives a return receipt
46 showing delivery of the notice to the lender or a potential claimant
47 within 30 days of the mailing of the notice, but the museum is not

1 contacted by the lender or potential claimant within 180 days after
2 the date of the notice; and

3 The museum provides, on or after the effective date of this act,
4 notice by publication pursuant to section 5 of this act, but the
5 museum is not contacted by the lender or potential claimant within
6 180 days of the date of the second or last notice by publication.

7

8 8. a. A person who purchases or otherwise acquires property
9 from a museum acquires good title to the property if the museum
10 has acquired good title to the property in accordance with this act.

11 b. No action shall be brought against a museum, or its officers,
12 trustees, directors, employees, or agents, to recover property on
13 loan to the museum after the museum has acquired good title in
14 accordance with this act.

15 c. If there are two or more claimants to property on loan to a
16 museum, the burden shall be upon each claimant to prove title to or
17 an interest in the property. A museum shall not be held liable for
18 delivering property to an uncontested claimant who produces
19 reasonable proof of title to or an interest in the property satisfactory
20 to the museum.

21 d. Unless there is evidence of bad faith or gross negligence, a
22 museum shall not be prejudiced by reason of any failure to deal
23 with a person who has title to or an interest in property on loan to
24 the museum.

25 e. If there is a dispute as to the title to or an interest in property
26 on loan to a museum, a museum shall not be held liable for its
27 refusal to deliver the property except in accordance with a court
28 order or judgment.

29

30 9. a. For a loan of property to a museum made on or after the
31 effective date of this act, the museum shall, at the time of the loan:

32 (1) make and retain a written record containing:

33 the name, address, and telephone number of the lender,

34 a description of the property in sufficient detail for ready
35 identification,

36 the beginning date of the loan, and

37 the expiration date of the loan;

38 (2) provide the lender with a signed receipt or agreement
39 containing, at least, the information set forth in paragraph (1) of this
40 subsection; and

41 (3) inform the lender in writing of the existence of this act and
42 provide the lender with a copy of this act upon the lender's request.

43 b. With respect to any property on loan to a museum, a
44 museum shall:

45 (1) update its record if a lender informs the museum of a change
46 of address or change in the title to or interest in the property, or if
47 the lender and museum negotiate a change in the duration of the
48 loan; and

1 (2) inform the lender in writing of the existence of this act when
2 renewing or updating the record and provide the lender with a copy
3 of this act upon the lender's request.
4

5 10. a. The lender, or any purchaser, donee, successor, or other
6 assignee of the lender's interest in the property, shall promptly
7 notify the museum in writing of a change in the lender's address or
8 of a change in the title to or interest in the property.

9 b. A purchaser, donee, successor, or other assignee of the
10 lender's interest shall establish title to or interest in the property by
11 producing reasonable proof satisfactory to the museum.
12

13 11. a. A lender and museum may agree in writing to terms and
14 conditions for a loan of property different than the provisions set
15 forth in this act.

16 b. Except as otherwise specifically provided by law, regulation,
17 or rule, property on loan to a museum shall not escheat to the State
18 under any State unclaimed property law.

19 c. An interest in or right to property on loan to a museum other
20 than that specifically addressed in this act shall not be affected by
21 this act.

22 d. A museum shall have a lien for expenses incurred for the
23 reasonable care of property on loan to the museum that is unclaimed
24 after the museum complies, on or after the effective date of this act,
25 with sections 4 and 5 of this act.

26 e. This act shall apply with regard to any property loaned to a
27 museum before the effective date of this act.
28

29 12. This act shall take effect immediately.
30
31

32 STATEMENT
33

34 The purpose of this bill, to be known as the Museum Unclaimed
35 Loan Act, is to establish standards and procedures whereby a
36 museum may acquire title to property that is on loan to the museum
37 but that remains unclaimed by the lender for a period of time. The
38 findings and declarations set forth in section 1 of the bill state that it
39 is in the public interest to encourage both museums and lenders to
40 use due diligence in monitoring property on loan; resolve the issue
41 of title to property on loan that is unclaimed and remains in the
42 custody of museums; and allocate fairly the responsibilities between
43 lenders and museums. While loans of property to museums should
44 be encouraged in furtherance of their educational and other
45 charitable purposes, museums must store and care for the property
46 long after the relevant loan period has expired when lenders fail to
47 stay in contact with museums with respect to property on loan. A
48 museum has limited rights to the use and care of such property, but

1 bears the substantial cost of storage, record keeping, climate
2 control, security, periodic inspection, insurance, and general
3 overhead.

4 This bill defines museum to mean a public or private nonprofit
5 agency or institution, or an agency or institution of the State or a
6 political subdivision of the State, located in the State of New Jersey
7 that:

8 is organized on a permanent basis;

9 is operated primarily for cultural, aesthetic, educational,
10 scientific, or historic preservation purposes;

11 utilizes a professional staff;

12 owns, borrows, cares for, exhibits, studies, archives, or
13 catalogues tangible animate or inanimate objects; and

14 makes them available to the public on a regular basis.

15 The term "museum" includes but is not limited to: art, history,
16 science, and natural history museums; educational institutions;
17 historical societies; historic sites; landmarks; parks; archives;
18 monuments; botanical gardens; arboreta; zoos; nature centers;
19 planetaria; aquaria; libraries; and technology centers.

20 Unless a written loan agreement specifically provides otherwise,
21 a museum may give notice of its intent to terminate a loan of
22 property under the following circumstances:

23 the property is on loan to the museum for an indefinite period of
24 time and the lender, or anyone acting legitimately on the lender's
25 behalf, has not contacted the museum with respect to the loan for at
26 least ten years from the beginning date of the loan; or

27 the property is on loan to the museum for a specified period of
28 time and the lender, or anyone acting legitimately on the lender's
29 behalf, has not contacted the museum with respect to the loan for at
30 least five years from the expiration date of the loan.

31 If a museum intends to terminate a loan of property, the museum
32 is to give notice to the lender of its intention at the last known
33 address of the lender. The museum must undertake a good faith
34 effort to identify the lender and the lender's last known address.
35 The same notice must be given, and the same search identification
36 undertaken, by the museum if the museum has knowledge of the
37 existence of a person or entity who claims title to the property.

38 If the museum knows the identity of the lender or a potential
39 claimant and the last known address of the lender or potential
40 claimant, the notice must be sent to the lender or potential claimant
41 by certified mail, return receipt requested, to the last known
42 address. Notice is deemed given if the museum receives a return
43 receipt showing delivery to the lender or potential claimant within
44 30 days of the mailing of the notice. The date of a notice is deemed
45 to be the date of delivery to the person to whom it was sent. If a
46 museum has been unable to give notice by mail, the museum must
47 give notice by publication placed at least twice, 60 or more days
48 apart, in a newspaper of general circulation in the county or

1 municipality in which the museum is located or in which the last
2 known address of the lender or potential claimant is located.

3 The bill requires certain information to be included in the notice
4 given either by mail or publication.

5 A museum will acquire good title to property on loan to the
6 museum if:

7 the museum receives a return receipt showing delivery of the
8 notice to the lender or potential claimant within 30 days of the
9 mailing of the notice, but the museum is not contacted by the lender
10 or a potential claimant within 180 days after the date of the notice;
11 and

12 the museum provides notice by publication, but the museum is
13 not contacted by the lender or a potential claimant within 180 days
14 of the date of the second or last notice by publication.

15 The bill also provides that:

16 no action can be brought against a museum, or its officers,
17 trustees, directors, employees, or agents, to recover property on
18 loan to the museum after the museum has acquired good title;

19 if there are two or more claimants to property on loan to a
20 museum, the burden will be upon each claimant to prove title to or
21 an interest in the property;

22 unless there is evidence of bad faith or gross negligence, a
23 museum will not be prejudiced by reason of any failure to deal with
24 a person who has title to or an interest in property on loan to the
25 museum; and

26 if there is a dispute as to the title to or an interest in property on
27 loan to a museum, a museum will not be held liable for its refusal to
28 deliver the property except in accordance with a court order or
29 judgment.

30 The bills requires that, for a loan of property to a museum made
31 on or after the effective date of this bill, the museum is to make, at
32 the time of the loan, a record or agreement of the loan, provide the
33 lender with a copy, and inform the lender in writing of the existence
34 of this bill. With respect to any property on loan to a museum, a
35 museum must update its record if a lender informs the museum of a
36 change of address or change in the title to or interest in the
37 property, or if the lender and museum negotiate a change in the
38 duration of the loan; and inform the lender in writing of the
39 existence of this act when renewing or updating the record.

40 The lender, or any purchaser, donee, successor, or other assignee
41 of the lender's interest in the property, must promptly notify the
42 museum in writing of a change in the lender's address or of a
43 change in the title to or interest in the property. A purchaser,
44 donee, successor, or other assignee of the lender's interest must
45 establish title to or interest in the property by producing reasonable
46 proof satisfactory to the museum.

S1882 T. KEAN

9

1 Except as otherwise specifically provided by law, regulation, or
2 rule, property on loan to a museum will not escheat to the State
3 under any State unclaimed property law.

4 A museum will have a lien for expenses incurred for the
5 reasonable care of property on loan to the museum that is unclaimed
6 after the museum complies with notice provisions of the bill.

7 The provisions of this bill apply with regard to any property
8 placed on loan to a museum before the effective date.

SENATE STATE GOVERNMENT, WAGERING, TOURISM &
HISTORIC PRESERVATION COMMITTEE

STATEMENT TO

SENATE, No. 1882

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 9, 2010

The Senate State Government, Wagering, Tourism & Historic Preservation Committee reports favorably and with committee amendments Senate, No. 1882.

The purpose of this bill, as amended, to be known as the Museum Unclaimed Loan Act, is to establish standards and procedures whereby a museum may acquire title to property that is on loan to the museum but that remains unclaimed by the lender for a period of time.

This bill defines museum to mean a public or private nonprofit agency or institution, or an agency or institution of the State or a political subdivision of the State, located in the State of New Jersey that:

- is organized on a permanent basis;
- is operated primarily for cultural, aesthetic, educational, scientific, or historic preservation purposes;
- utilizes a professional staff;
- owns, borrows, cares for, exhibits, studies, archives, or catalogues tangible animate or inanimate objects; and
- makes them available to the public on a regular basis.

The term “museum” includes but is not limited to: art, history, science, and natural history museums; educational institutions; historical societies; historic sites; landmarks; parks; archives; monuments; botanical gardens; arboreta; zoos; nature centers; planetaria; aquaria; libraries; and technology centers.

Unless a written loan agreement specifically provides otherwise, a museum may give notice of its intent to terminate a loan of property under the following circumstances:

the property is on loan to the museum for an indefinite period of time and the lender, or anyone acting legitimately on the lender’s behalf, has not contacted the museum with respect to the loan for at least ten years from the beginning date of the loan; or

the property is on loan to the museum for a specified period of time and the lender, or anyone acting legitimately on the lender’s behalf, has not contacted the museum with respect to the loan for at least five years from the expiration date of the loan.

If a museum intends to terminate a loan of property, the museum is to give notice to the lender of its intention at the last known address of the lender. The museum must undertake a good faith effort to identify the lender and the lender's last known address. The same notice must be given, and the same search identification undertaken, by the museum if the museum has knowledge of the existence of a person or entity who claims title to the property.

If the museum knows the identity of the lender or a potential claimant and the last known address of the lender or potential claimant, the notice must be sent to the lender or potential claimant by certified mail, return receipt requested, to the last known address. Notice is deemed given if the museum receives a return receipt showing delivery to the lender or potential claimant within 30 days of the mailing of the notice. The date of a notice is deemed to be the date of delivery to the person to whom it was sent. If a museum has been unable to give notice by mail, the museum must give notice by publication placed at least twice, 60 or more days apart, in a newspaper of general circulation in the county or municipality in which the museum is located or in which the last known address of the lender or potential claimant is located.

The bill requires certain information to be included in the notice given either by mail or publication.

A museum will acquire good title to property on loan to the museum if:

the museum receives a return receipt showing delivery of the notice to the lender or potential claimant within 30 days of the mailing of the notice, but the museum is not contacted by the lender or a potential claimant within 180 days after the date of the notice; and

the museum provides notice by publication, but the museum is not contacted by the lender or a potential claimant within 180 days of the date of the second or last notice by publication.

The bill also provides that:

no action can be brought against a museum, or its officers, trustees, directors, employees, or agents, to recover property on loan to the museum after the museum has acquired good title;

if there are two or more claimants to property on loan to a museum, the burden will be upon each claimant to prove title to or an interest in the property;

unless there is evidence of bad faith or gross negligence, a museum will not be prejudiced by reason of any failure to deal with a person who has title to or an interest in property on loan to the museum; and

if there is a dispute as to the title to or an interest in property on loan to a museum, a museum will not be held liable for its refusal to deliver the property except in accordance with a court order or judgment.

The bill requires that, for a loan of property to a museum made on or after the effective date of this bill, the museum is to make, at the

time of the loan, a record or agreement of the loan, provide the lender with a copy, and inform the lender in writing of the existence of this bill. With respect to any property on loan to a museum, a museum must update its record if a lender informs the museum of a change of address or change in the title to or interest in the property, or if the lender and museum negotiate a change in the duration of the loan; and inform the lender in writing of the existence of this act when renewing or updating the record.

The lender, or any purchaser, donee, successor, or other assignee of the lender's interest in the property, must promptly notify the museum in writing of a change in the lender's address or of a change in the title to or interest in the property. A purchaser, donee, successor, or other assignee of the lender's interest must establish title to or interest in the property by producing reasonable proof satisfactory to the museum.

Except as otherwise specifically provided by law, regulation, or rule, property on loan to a museum will not escheat to the State under any State unclaimed property law.

A museum will have a lien for expenses incurred for the reasonable care of property on loan to the museum that is unclaimed after the museum complies with notice provisions of the bill.

The provisions of this bill apply with regard to any property placed on loan to a museum before the effective date.

COMMITTEE AMENDMENTS

The committee adopted an amendment to delete the provision that notice of the intention to terminate a loan of property held by a museum may be provided by the prevailing method for publishing notices at the time the notice is provided.

ASSEMBLY STATE GOVERNMENT COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 1882

STATE OF NEW JERSEY

DATED: JANUARY 24, 2011

The Assembly State Government Committee reports favorably Senate, No. 1882 (1R).

The purpose of this bill, to be known as the Museum Unclaimed Loan Act, is to establish standards and procedures whereby a museum may acquire title to property that is on loan to the museum but that remains unclaimed by the lender for a period of time. The findings and declarations set forth in section 1 of the bill state that it is in the public interest to encourage both museums and lenders to use due diligence in monitoring property on loan; resolve the issue of title to property on loan that is unclaimed and remains in the custody of museums; and allocate fairly the responsibilities between lenders and museums. While loans of property to museums should be encouraged in furtherance of their educational and other charitable purposes, museums must store and care for the property long after the relevant loan period has expired when lenders fail to stay in contact with museums with respect to property on loan. A museum has limited rights to the use and care of such property, but bears the substantial cost of storage, record keeping, climate control, security, periodic inspection, insurance, and general overhead.

This bill defines museum to mean a public or private nonprofit agency or institution, or an agency or institution of the State or a political subdivision of the State, located in the State of New Jersey that:

- is organized on a permanent basis;
- is operated primarily for cultural, aesthetic, educational, scientific, or historic preservation purposes;
- utilizes a professional staff;
- owns, borrows, cares for, exhibits, studies, archives, or catalogues tangible animate or inanimate objects; and
- makes them available to the public on a regular basis.

The term "museum" includes but is not limited to: art, history, science, and natural history museums; educational institutions; historical societies; historic sites; landmarks; parks; archives; monuments; botanical gardens; arboreta; zoos; nature centers; planetaria; aquaria; libraries; and technology centers.

Unless a written loan agreement specifically provides otherwise, a museum may give notice of its intent to terminate a loan of property under the following circumstances:

the property is on loan to the museum for an indefinite period of time and the lender, or anyone acting legitimately on the lender's behalf, has not contacted the museum with respect to the loan for at least ten years from the beginning date of the loan; or

the property is on loan to the museum for a specified period of time and the lender, or anyone acting legitimately on the lender's behalf, has not contacted the museum with respect to the loan for at least five years from the expiration date of the loan.

If a museum intends to terminate a loan of property, the museum is to give notice to the lender of its intention at the last known address of the lender. The museum must undertake a good faith effort to identify the lender and the lender's last known address. The same notice must be given, and the same search identification undertaken, by the museum if the museum has knowledge of the existence of a person or entity who claims title to the property.

If the museum knows the identity of the lender or a potential claimant and the last known address of the lender or potential claimant, the notice must be sent to the lender or potential claimant by certified mail, return receipt requested, to the last known address. Notice is deemed given if the museum receives a return receipt showing delivery to the lender or potential claimant within 30 days of the mailing of the notice. The date of a notice is deemed to be the date of delivery to the person to whom it was sent. If a museum has been unable to give notice by mail, the museum must give notice by publication placed at least twice, 60 or more days apart, in a newspaper of general circulation in the county or municipality in which the museum is located or in which the last known address of the lender or potential claimant is located.

The bill requires certain information to be included in the notice given either by mail or publication.

A museum will acquire good title to property on loan to the museum if:

the museum receives a return receipt showing delivery of the notice to the lender or potential claimant within 30 days of the mailing of the notice, but the museum is not contacted by the lender or a potential claimant within 180 days after the date of the notice; and

the museum provides notice by publication, but the museum is not contacted by the lender or a potential claimant within 180 days of the date of the second or last notice by publication.

The bill also provides that:

no action can be brought against a museum, or its officers, trustees, directors, employees, or agents, to recover property on loan to the museum after the museum has acquired good title;

if there are two or more claimants to property on loan to a museum, the burden will be upon each claimant to prove title to or an interest in the property;

unless there is evidence of bad faith or gross negligence, a museum will not be prejudiced by reason of any failure to deal with a person who has title to or an interest in property on loan to the museum; and

if there is a dispute as to the title to or an interest in property on loan to a museum, a museum will not be held liable for its refusal to deliver the property except in accordance with a court order or judgment.

The bills requires that, for a loan of property to a museum made on or after the effective date of this bill, the museum is to make, at the time of the loan, a record or agreement of the loan, provide the lender with a copy, and inform the lender in writing of the existence of the Museum Unclaimed Loan Act. With respect to any property on loan to a museum, a museum must update its record if a lender informs the museum of a change of address or change in the title to or interest in the property, or if the lender and museum negotiate a change in the duration of the loan; and inform the lender in writing of the existence of this act when renewing or updating the record.

The lender, or any purchaser, donee, successor, or other assignee of the lender's interest in the property, must promptly notify the museum in writing of a change in the lender's address or of a change in the title to or interest in the property. A purchaser, donee, successor, or other assignee of the lender's interest must establish title to or interest in the property by producing reasonable proof satisfactory to the museum.

Except as otherwise specifically provided by law, regulation, or rule, property on loan to a museum will not escheat to the State under any State unclaimed property law.

A museum will have a lien for expenses incurred for the reasonable care of property on loan to the museum that is unclaimed after the museum complies with notice provisions of the bill.

The provisions of this bill apply to any property placed on loan to a museum before, as well as after, its effective date.

Senate Bill No. 1882 (1R) is identical to Assembly Bill No. 3258 of 2010.

ASSEMBLY, No. 3258

STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED SEPTEMBER 30, 2010

Sponsored by:

Assemblywoman LINDA STENDER

District 22 (Middlesex, Somerset and Union)

Assemblywoman NANCY F. MUNOZ

District 21 (Essex, Morris, Somerset and Union)

SYNOPSIS

Provides standards and procedures for museum to acquire title to property that is on loan to museum but has not been claimed by lender for period of time.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 1/11/2011)

1 AN ACT concerning the disposition of unclaimed property on loan
2 to a museum and supplementing Title 52 of the Revised Statutes.

3

4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6

7 1. This act shall be known and may be cited as the “Museum
8 Unclaimed Loan Act.”

9

10 2. The Legislature finds and declares that the people of the
11 State of New Jersey have an interest in the maintenance and growth
12 of museum collections and in the preservation and protection of
13 property on loan to museums within this State. Loans of property
14 that are of artistic, historic, cultural, and scientific value are made to
15 museums in furtherance of their educational and other charitable
16 purposes. When lenders fail to stay in contact with museums with
17 respect to property on loan, museums must store and care for the
18 property long after the relevant loan period has expired or should
19 reasonably be deemed expired. Museums have limited rights to the
20 use and care of such property, all the while bearing substantial costs
21 related to storage, record keeping, climate control, security,
22 periodic inspection, insurance, and general overhead.

23 Therefore, it is in the public interest to encourage both museums
24 and lenders to use due diligence in monitoring property on loan;
25 resolve the issue of title to property on loan that is unclaimed and
26 remains in the custody of museums; and allocate fairly the
27 responsibilities between lenders and museums.

28 The purpose of this act, the Museum Unclaimed Loan Act, is to
29 establish standards and procedures for the disposition of unclaimed
30 property on loan to museums and this act should be interpreted in
31 accordance with these findings and declarations.

32

33 3. As used in this act:

34 “Claimant” means an individual, association, partnership,
35 corporation, trust, estate, or other entity, other than the lender of
36 record, claiming or establishing title to or an interest in property
37 that is on loan to a museum.

38 “Lender” means an individual, association, partnership,
39 corporation, trust, estate, or other entity having title to or an interest
40 in property on loan to a museum.

41 “Loan” means a deposit of property with a museum for a
42 specified or unspecified period of time that does not involve a
43 transfer of title to or interest in the property.

44 “Museum” means a public or private nonprofit agency or
45 institution, and any agency or institution of the State or a political
46 subdivision of the State, located in the State of New Jersey that:

47 is organized on a permanent basis;

1 is operated primarily for cultural, aesthetic, educational,
2 scientific, or historic preservation purposes;
3 utilizes a professional staff;
4 owns, borrows, cares for, exhibits, studies, archives, or
5 catalogues tangible animate or inanimate objects; and
6 makes them available to the public on a regular basis.

7 The term “museum” includes, but is not limited to: art, history,
8 science, and natural history museums; educational institutions;
9 historical societies; historic sites; landmarks; parks; archives;
10 monuments; botanical gardens; arboreta; zoos; nature centers;
11 planetaria; aquaria; libraries; and technology centers.

12 “Property” means tangible animate or inanimate objects.
13

14 4. a. Unless a written loan agreement specifically provides
15 otherwise, a museum may give notice of its intent to terminate a
16 loan of property under the following circumstances:

17 the property is on loan to the museum for an indefinite period of
18 time and the lender, or anyone acting legitimately on the lender’s
19 behalf, has not contacted the museum with respect to the loan for at
20 least ten years from the beginning date of the loan; or

21 the property is on loan to the museum for a specified period of
22 time and the lender, or anyone acting legitimately on the lender’s
23 behalf, has not contacted the museum with respect to the loan for at
24 least five years from the expiration date of the loan.

25 b. Any notice given by a museum pursuant to this act for the
26 purpose of terminating a loan of property shall contain the
27 following information:

28 a description of the property in sufficient detail for ready
29 identification;

30 the last known name and address of the lender or a potential
31 claimant;

32 the date of the loan, if known, or the approximate date the
33 property was deposited with the museum;

34 the name and address of the museum; and

35 the name, address, and contact information of the appropriate
36 museum official or office to be contacted regarding the property.
37

38 5. a. If a museum intends to terminate a loan of property, the
39 museum shall give notice to the lender of its intention at the last
40 known address of the lender. The museum shall undertake a
41 reasonable search in good faith to identify the lender and the
42 lender’s last known address from the museum records and other
43 records reasonably available to the museum. The same notice shall
44 be given, and the same search shall be undertaken, by the museum
45 if the museum has knowledge of the existence of a potential
46 claimant.

47 If the museum identifies the lender or a potential claimant and
48 the last known address of the lender or potential claimant, the notice

1 shall be sent to the lender or potential claimant by certified mail,
2 return receipt requested, to the last known address. Notice shall be
3 deemed given if the museum receives a return receipt showing
4 delivery to the lender or potential claimant within 30 days of the
5 mailing of the notice. The date of a notice shall be deemed to be
6 the date of delivery to the person to whom it was sent.

7 b. A notice of intent to terminate a loan of property sent to the
8 lender or a potential claimant pursuant to subsection a. of this
9 section shall include, in addition to the information required by
10 subsection b. of section 3 of this act, a statement indicating:

11 the intent of the museum to terminate the loan;

12 the date of the notice;

13 that the lender or potential claimant must contact the museum in
14 order to establish title to or an interest in the property and make
15 arrangements to take possession of the property; and

16 that failure to contact the museum within 180 days after the date
17 of the notice will result in the loss of title to or an interest in the
18 property pursuant to section 6 of this act.

19

20 6. a. If a museum intends to terminate a loan of property and
21 has been unable to give notice in accordance with section 4 of this
22 act, the museum shall give notice by publication of intent to
23 terminate a loan of property. Publication shall be by means of a
24 notice placed at least twice, 60 or more days apart, in a newspaper
25 of general circulation in the county or municipality in which the
26 museum is located and in which the last known address of the
27 lender, if known, is located, or by the prevailing method for
28 publishing public notices at the time.

29 b. A published notice of intent to terminate a loan shall
30 include, in addition to the information required in sections 3 and 4
31 of this act, a request that any person who has knowledge of the
32 lender or potential claimant and where the lender or potential
33 claimant may be located should provide written notice to the
34 museum. If such a written notice is received by the museum, the
35 museum shall provide the notice to the lender or potential claimant
36 required pursuant to section 4 of this act.

37 c. In addition to the method of notice designated in subsection
38 a. of this section, a museum may, whenever practicable, use an
39 emerging technology to publish such a notice in order to reach as
40 broad a circulation as possible.

41

42 7. A museum shall acquire good title to property on loan to the
43 museum under the following circumstances:

44 The museum provides, on or after the effective date of this act,
45 notice pursuant to section 4 of this act and receives a return receipt
46 showing delivery of the notice to the lender or a potential claimant
47 within 30 days of the mailing of the notice, but the museum is not

1 contacted by the lender or potential claimant within 180 days after
2 the date of the notice; and

3 The museum provides, on or after the effective date of this act,
4 notice by publication pursuant to section 5 of this act, but the
5 museum is not contacted by the lender or potential claimant within
6 180 days of the date of the second or last notice by publication.

7
8 8. a. A person who purchases or otherwise acquires property
9 from a museum acquires good title to the property if the museum
10 has acquired good title to the property in accordance with this act.

11 b. No action shall be brought against a museum, or its officers,
12 trustees, directors, employees, or agents, to recover property on
13 loan to the museum after the museum has acquired good title in
14 accordance with this act.

15 c. If there are two or more claimants to property on loan to a
16 museum, the burden shall be upon each claimant to prove title to or
17 an interest in the property. A museum shall not be held liable for
18 delivering property to an uncontested claimant who produces
19 reasonable proof of title to or an interest in the property satisfactory
20 to the museum.

21 d. Unless there is evidence of bad faith or gross negligence, a
22 museum shall not be prejudiced by reason of any failure to deal
23 with a person who has title to or an interest in property on loan to
24 the museum.

25 e. If there is a dispute as to the title to or an interest in property
26 on loan to a museum, a museum shall not be held liable for its
27 refusal to deliver the property except in accordance with a court
28 order or judgment.

29
30 9. a. For a loan of property to a museum made on or after the
31 effective date of this act, the museum shall, at the time of the loan:

32 (1) make and retain a written record containing:

33 the name, address, and telephone number of the lender,

34 a description of the property in sufficient detail for ready
35 identification,

36 the beginning date of the loan, and

37 the expiration date of the loan;

38 (2) provide the lender with a signed receipt or agreement
39 containing, at least, the information set forth in paragraph (1) of this
40 subsection; and

41 (3) inform the lender in writing of the existence of this act and
42 provide the lender with a copy of this act upon the lender's request.

43 b. With respect to any property on loan to a museum, a
44 museum shall:

45 (1) update its record if a lender informs the museum of a change
46 of address or change in the title to or interest in the property, or if
47 the lender and museum negotiate a change in the duration of the
48 loan; and

1 (2) inform the lender in writing of the existence of this act when
2 renewing or updating the record and provide the lender with a copy
3 of this act upon the lender's request.
4

5 10. a. The lender, or any purchaser, donee, successor, or other
6 assignee of the lender's interest in the property, shall promptly
7 notify the museum in writing of a change in the lender's address or
8 of a change in the title to or interest in the property.

9 b. A purchaser, donee, successor, or other assignee of the
10 lender's interest shall establish title to or interest in the property by
11 producing reasonable proof satisfactory to the museum.
12

13 11. a. A lender and museum may agree in writing to terms and
14 conditions for a loan of property different than the provisions set
15 forth in this act.

16 b. Except as otherwise specifically provided by law, regulation,
17 or rule, property on loan to a museum shall not escheat to the State
18 under any State unclaimed property law.

19 c. An interest in or right to property on loan to a museum other
20 than that specifically addressed in this act shall not be affected by
21 this act.

22 d. A museum shall have a lien for expenses incurred for the
23 reasonable care of property on loan to the museum that is unclaimed
24 after the museum complies, on or after the effective date of this act,
25 with sections 4 and 5 of this act.

26 e. This act shall apply with regard to any property loaned to a
27 museum before the effective date of this act.
28

29 12. This act shall take effect immediately.
30
31

32 STATEMENT
33

34 The purpose of this bill, to be known as the Museum Unclaimed
35 Loan Act, is to establish standards and procedures whereby a
36 museum may acquire title to property that is on loan to the museum
37 but that remains unclaimed by the lender for a period of time. The
38 findings and declarations set forth in section 1 of the bill state that it
39 is in the public interest to encourage both museums and lenders to
40 use due diligence in monitoring property on loan; resolve the issue
41 of title to property on loan that is unclaimed and remains in the
42 custody of museums; and allocate fairly the responsibilities between
43 lenders and museums. While loans of property to museums should
44 be encouraged in furtherance of their educational and other
45 charitable purposes, museums must store and care for the property
46 long after the relevant loan period has expired when lenders fail to
47 stay in contact with museums with respect to property on loan. A
48 museum has limited rights to the use and care of such property, but

1 bears the substantial cost of storage, record keeping, climate
2 control, security, periodic inspection, insurance, and general
3 overhead.

4 This bill defines museum to mean a public or private nonprofit
5 agency or institution, or an agency or institution of the State or a
6 political subdivision of the State, located in the State of New Jersey
7 that:

8 is organized on a permanent basis;

9 is operated primarily for cultural, aesthetic, educational,
10 scientific, or historic preservation purposes;

11 utilizes a professional staff;

12 owns, borrows, cares for, exhibits, studies, archives, or
13 catalogues tangible animate or inanimate objects; and

14 makes them available to the public on a regular basis.

15 The term "museum" includes but is not limited to: art, history,
16 science, and natural history museums; educational institutions;
17 historical societies; historic sites; landmarks; parks; archives;
18 monuments; botanical gardens; arboreta; zoos; nature centers;
19 planetaria; aquaria; libraries; and technology centers.

20 Unless a written loan agreement specifically provides otherwise,
21 a museum may give notice of its intent to terminate a loan of
22 property under the following circumstances:

23 the property is on loan to the museum for an indefinite period of
24 time and the lender, or anyone acting legitimately on the lender's
25 behalf, has not contacted the museum with respect to the loan for at
26 least ten years from the beginning date of the loan; or

27 the property is on loan to the museum for a specified period of
28 time and the lender, or anyone acting legitimately on the lender's
29 behalf, has not contacted the museum with respect to the loan for at
30 least five years from the expiration date of the loan.

31 If a museum intends to terminate a loan of property, the museum
32 is to give notice to the lender of its intention at the last known
33 address of the lender. The museum must undertake a good faith
34 effort to identify the lender and the lender's last known address.
35 The same notice must be given, and the same search identification
36 undertaken, by the museum if the museum has knowledge of the
37 existence of a person or entity who claims title to the property.

38 If the museum knows the identity of the lender or a potential
39 claimant and the last known address of the lender or potential
40 claimant, the notice must be sent to the lender or potential claimant
41 by certified mail, return receipt requested, to the last known
42 address. Notice is deemed given if the museum receives a return
43 receipt showing delivery to the lender or potential claimant within
44 30 days of the mailing of the notice. The date of a notice is deemed
45 to be the date of delivery to the person to whom it was sent. If a
46 museum has been unable to give notice by mail, the museum must
47 give notice by publication placed at least twice, 60 or more days
48 apart, in a newspaper of general circulation in the county or

1 municipality in which the museum is located or in which the last
2 known address of the lender or potential claimant is located.

3 The bill requires certain information to be included in the notice
4 given either by mail or publication.

5 A museum will acquire good title to property on loan to the
6 museum if:

7 the museum receives a return receipt showing delivery of the
8 notice to the lender or potential claimant within 30 days of the
9 mailing of the notice, but the museum is not contacted by the lender
10 or a potential claimant within 180 days after the date of the notice;
11 and

12 the museum provides notice by publication, but the museum is
13 not contacted by the lender or a potential claimant within 180 days
14 of the date of the second or last notice by publication.

15 The bill also provides that:

16 no action can be brought against a museum, or its officers,
17 trustees, directors, employees, or agents, to recover property on
18 loan to the museum after the museum has acquired good title;

19 if there are two or more claimants to property on loan to a
20 museum, the burden will be upon each claimant to prove title to or
21 an interest in the property;

22 unless there is evidence of bad faith or gross negligence, a
23 museum will not be prejudiced by reason of any failure to deal with
24 a person who has title to or an interest in property on loan to the
25 museum; and

26 if there is a dispute as to the title to or an interest in property on
27 loan to a museum, a museum will not be held liable for its refusal to
28 deliver the property except in accordance with a court order or
29 judgment.

30 The bills requires that, for a loan of property to a museum made
31 on or after the effective date of this bill, the museum is to make, at
32 the time of the loan, a record or agreement of the loan, provide the
33 lender with a copy, and inform the lender in writing of the existence
34 of this bill. With respect to any property on loan to a museum, a
35 museum must update its record if a lender informs the museum of a
36 change of address or change in the title to or interest in the
37 property, or if the lender and museum negotiate a change in the
38 duration of the loan; and inform the lender in writing of the
39 existence of this act when renewing or updating the record.

40 The lender, or any purchaser, donee, successor, or other assignee
41 of the lender's interest in the property, must promptly notify the
42 museum in writing of a change in the lender's address or of a
43 change in the title to or interest in the property. A purchaser,
44 donee, successor, or other assignee of the lender's interest must
45 establish title to or interest in the property by producing reasonable
46 proof satisfactory to the museum.

1 Except as otherwise specifically provided by law, regulation, or
2 rule, property on loan to a museum will not escheat to the State
3 under any State unclaimed property law.

4 A museum will have a lien for expenses incurred for the
5 reasonable care of property on loan to the museum that is unclaimed
6 after the museum complies with notice provisions of the bill.

7 The provisions of this bill apply with regard to any property
8 placed on loan to a museum before the effective date.

ASSEMBLY STATE GOVERNMENT COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3258

STATE OF NEW JERSEY

DATED: JANUARY 24, 2011

The Assembly State Government Committee reports favorably Assembly, No. 3258.

The purpose of this bill, to be known as the Museum Unclaimed Loan Act, is to establish standards and procedures whereby a museum may acquire title to property that is on loan to the museum but that remains unclaimed by the lender for a period of time. The findings and declarations set forth in section 1 of the bill state that it is in the public interest to encourage both museums and lenders to use due diligence in monitoring property on loan; resolve the issue of title to property on loan that is unclaimed and remains in the custody of museums; and allocate fairly the responsibilities between lenders and museums. While loans of property to museums should be encouraged in furtherance of their educational and other charitable purposes, museums must store and care for the property long after the relevant loan period has expired when lenders fail to stay in contact with museums with respect to property on loan. A museum has limited rights to the use and care of such property, but bears the substantial cost of storage, record keeping, climate control, security, periodic inspection, insurance, and general overhead.

This bill defines museum to mean a public or private nonprofit agency or institution, or an agency or institution of the State or a political subdivision of the State, located in the State of New Jersey that:

- is organized on a permanent basis;
- is operated primarily for cultural, aesthetic, educational, scientific, or historic preservation purposes;
- utilizes a professional staff;
- owns, borrows, cares for, exhibits, studies, archives, or catalogues tangible animate or inanimate objects; and
- makes them available to the public on a regular basis.

The term "museum" includes but is not limited to: art, history, science, and natural history museums; educational institutions; historical societies; historic sites; landmarks; parks; archives; monuments; botanical gardens; arboreta; zoos; nature centers; planetaria; aquaria; libraries; and technology centers.

Unless a written loan agreement specifically provides otherwise, a museum may give notice of its intent to terminate a loan of property under the following circumstances:

the property is on loan to the museum for an indefinite period of time and the lender, or anyone acting legitimately on the lender's behalf, has not contacted the museum with respect to the loan for at least ten years from the beginning date of the loan; or

the property is on loan to the museum for a specified period of time and the lender, or anyone acting legitimately on the lender's behalf, has not contacted the museum with respect to the loan for at least five years from the expiration date of the loan.

If a museum intends to terminate a loan of property, the museum is to give notice to the lender of its intention at the last known address of the lender. The museum must undertake a good faith effort to identify the lender and the lender's last known address. The same notice must be given, and the same search identification undertaken, by the museum if the museum has knowledge of the existence of a person or entity who claims title to the property.

If the museum knows the identity of the lender or a potential claimant and the last known address of the lender or potential claimant, the notice must be sent to the lender or potential claimant by certified mail, return receipt requested, to the last known address. Notice is deemed given if the museum receives a return receipt showing delivery to the lender or potential claimant within 30 days of the mailing of the notice. The date of a notice is deemed to be the date of delivery to the person to whom it was sent. If a museum has been unable to give notice by mail, the museum must give notice by publication placed at least twice, 60 or more days apart, in a newspaper of general circulation in the county or municipality in which the museum is located or in which the last known address of the lender or potential claimant is located.

The bill requires certain information to be included in the notice given either by mail or publication.

A museum will acquire good title to property on loan to the museum if:

the museum receives a return receipt showing delivery of the notice to the lender or potential claimant within 30 days of the mailing of the notice, but the museum is not contacted by the lender or a potential claimant within 180 days after the date of the notice; and

the museum provides notice by publication, but the museum is not contacted by the lender or a potential claimant within 180 days of the date of the second or last notice by publication.

The bill also provides that:

no action can be brought against a museum, or its officers, trustees, directors, employees, or agents, to recover property on loan to the museum after the museum has acquired good title;

if there are two or more claimants to property on loan to a museum, the burden will be upon each claimant to prove title to or an interest in the property;

unless there is evidence of bad faith or gross negligence, a museum will not be prejudiced by reason of any failure to deal with a person who has title to or an interest in property on loan to the museum; and

if there is a dispute as to the title to or an interest in property on loan to a museum, a museum will not be held liable for its refusal to deliver the property except in accordance with a court order or judgment.

The bills requires that, for a loan of property to a museum made on or after the effective date of this bill, the museum is to make, at the time of the loan, a record or agreement of the loan, provide the lender with a copy, and inform the lender in writing of the existence of the Museum Unclaimed Loan Act. With respect to any property on loan to a museum, a museum must update its record if a lender informs the museum of a change of address or change in the title to or interest in the property, or if the lender and museum negotiate a change in the duration of the loan; and inform the lender in writing of the existence of this act when renewing or updating the record.

The lender, or any purchaser, donee, successor, or other assignee of the lender's interest in the property, must promptly notify the museum in writing of a change in the lender's address or of a change in the title to or interest in the property. A purchaser, donee, successor, or other assignee of the lender's interest must establish title to or interest in the property by producing reasonable proof satisfactory to the museum.

Except as otherwise specifically provided by law, regulation, or rule, property on loan to a museum will not escheat to the State under any State unclaimed property law.

A museum will have a lien for expenses incurred for the reasonable care of property on loan to the museum that is unclaimed after the museum complies with notice provisions of the bill.

The provisions of this bill apply to any property placed on loan to a museum before, as well as after, its effective date.

Assembly Bill No. 3258 is identical to Senate Bill No. 1882 (1R) of 2010.

STATEMENT TO
ASSEMBLY, No. 3258

with Assembly Floor Amendments
(Proposed by Assemblywoman STENDER)

ADOPTED: MAY 9, 2011

These floor amendments delete the phrase “or by the prevailing method for publishing public notices at the time” with regard to notice publication requirements to make the bill identical to Senate, No. 1882 (1R).