

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

Act 2242 of the Regular Session

1 State of Arkansas  
2 85th General Assembly  
3 Regular Session, 2005  
4

As Engrossed: H3/24/05 S4/5/05

A Bill

HOUSE BILL 2823

5 By: Representative Mahony  
6 By: Senator Bryles  
7  
8

9 **For An Act To Be Entitled**

10 AN ACT CONCERNING LOANED OR UNDOCUMENTED PROPERTY  
11 IN THE POSSESSION OF MUSEUMS IN THE STATE OF  
12 ARKANSAS; AND FOR OTHER PURPOSES.  
13

14 **Subtitle**

15 AN ACT CONCERNING LOANED OR UNDOCUMENTED  
16 PROPERTY IN THE POSSESSION OF MUSEUMS IN  
17 THE STATE OF ARKANSAS.  
18  
19

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
21

22 *SECTION 1. Arkansas Code Title 13, Chapter 5, is amended to add an*  
23 *additional subchapter to read as follows:*  
24

25 13-5-1001. Short title.

26 This subchapter shall be known and may be cited as the "Museum Property  
27 Act".  
28

29 13-5-1002. Purpose.

30 The purpose of this subchapter is to:

31 (1) Establish procedures for vesting in a museum ownership of  
32 abandoned or undocumented property in the possession of the museum;

33 (2) Establish procedures to terminate loans of property to a  
34 museum;

35 (3) Allow a museum to conserve or dispose of loaned or



1 undocumented property under certain conditions; and

2 (4) Limit actions to recover loaned or undocumented property.

3  
4 13-5-1003. Definitions.

5 As used in this subchapter:

6 (1) "Address" means the most recent location of a claimant or  
7 lender as indicated by a museum's records pertaining to the property;

8 (2)(A) "Claimant" means a person who has established or claims  
9 entitlement to or an interest in property held by a museum.

10 (B) "Claimant" does not mean a lender;

11 (3) "Lender" means the person identified by the records of a  
12 museum as the owner or rightful possessor of a loan held by a museum;

13 (4)(A) "Loan" means property that a lender has placed in the  
14 custody of a museum.

15 (B) "Loan" does not include a consignment of property for  
16 sale or property donated to a museum;

17 (5)(A) "Museum" means an institution or entity located in  
18 Arkansas that:

19 (i) Is operated by a nonprofit corporation, trust,  
20 association, public agency, or educational institution;

21 (ii) Is operated primarily for educational,  
22 scientific, historic preservation, cultural, or aesthetic purposes; and

23 (iii) Owns, borrows, cares for, exhibits, studies,  
24 archives, or catalogues property.

25 (B) "Museum" includes historical societies, historic  
26 sites, landmarks, parks, archives, monuments, botanical gardens, arboreta,  
27 zoos, nature centers, planetaria, aquaria, libraries, technology centers, and  
28 art, history, science, and natural history museums;

29 (6) "Permanent loan" means a loan to a museum for an indefinite  
30 term;

31 (7) "Person" means an individual, association, partnership,  
32 corporation, trust, estate, or other entity;

33 (8) "Property" means a document or tangible object, animate or  
34 inanimate, with intrinsic historic, scientific, artistic, or cultural value  
35 that is in the custody of a museum;

36 (9) "Unclaimed property" means property meeting the following

1 conditions:

2 (A) The property was placed with the museum for exhibition  
3 or other purposes; and

4 (B) The original person placing the property with the  
5 museum, or a person acting legitimately on the original person's behalf, has  
6 not contacted the museum in writing regarding the property for at least:

7 (i) Ten (10) years from the date of the beginning of  
8 the period for which the property was placed with the museum, if the property  
9 was placed with the museum for an indefinite or undetermined period; or

10 (ii) Five (5) years after the date upon which the  
11 definite period in which the property was placed with the museum expired; and

12 (10)(A) "Undocumented property" means property:

13 (i) That is held by a museum; and

14 (ii) The ownership of which cannot be determined  
15 from the museum's records.

16 (B) Undocumented property shall not be construed to  
17 include loaned property.

18  
19 13-5-1004. Procedure for obtaining ownership of an abandoned loan.

20 (a) By complying with subsection (b) or (c) of this section, a museum  
21 may obtain ownership of a loan if:

22 (1) The loan agreement has expired; or

23 (2)(i) The loan has been in the museum's custody for more than  
24 ten (10) years; and

25 (ii) The loan agreement does not provide for a  
26 longer term for the loan or another disposition.

27 (b)(1) If the address of the lender is known, the museum shall send  
28 the notice required in subsection (d) of this section to the lender by  
29 certified or registered mail, return receipt requested.

30 (2)(A) If the return receipt showing receipt of the notice is  
31 returned and the lender fails to object within ninety (90) days of the date  
32 of the return receipt, the loan shall be considered abandoned and its  
33 ownership shall vest in the museum.

34 (B) If the museum did not receive a return receipt showing  
35 receipt of the notice, it may proceed in accordance with the provisions of  
36 subsection (c) of this section.

1 (c)(1) If the museum is unable to determine the identity of the lender  
2 or the lender's address, the museum shall publish the notice required under  
3 subsection (d) of this section at least one (1) time a week for four (4)  
4 consecutive weeks in at least one (1) newspaper with general circulation in:

5 (A)(i) The county of last known address of the lender; and

6 (ii) The county in which the museum is located; or

7 (B) The State of Arkansas.

8 (2) If the lender fails to object within ninety (90) days from  
9 the last date of the publication, the loan shall be considered abandoned and  
10 its ownership shall vest in the museum.

11 (d) The notice shall contain:

12 (1) The name, address, and telephone number of the museum;

13 (2) A complete description of the loan;

14 (3) The lender's identity if that information is available from  
15 the museum's records;

16 (4) The lender's last known address if that information is  
17 available from the museum's records; and

18 (5) A statement that the loan shall be considered abandoned and  
19 shall become the property of the museum if the lender or claimant does not  
20 make a timely objection in accordance with subsection (b) or (c) of this  
21 section, whichever is applicable.

22  
23 13-5-1005. Museum's right to claim ownership of undocumented property.

24 (a) Undocumented property in the possession of a museum shall become  
25 the museum's property if no person has claimed the property within seven (7)  
26 years after the museum documented possession of the undocumented property.

27 (b) This section does not vest ownership of the property in the museum  
28 if the undocumented property is determined later to be:

29 (1) Stolen property; or

30 (2) Property whose ownership is subject to federal law.

31  
32 13-5-1006. Duties of museum concerning a loan.

33 (a) At the time of a loan to a museum, the museum shall:

34 (1) Make and retain a written record of the following:

35 (A) The lender's name, address, and telephone number;

36 (B) A description of the loan;

1 (C) The date of the loan; and

2 (D) The expiration date of the loan; and

3 (2) Provide the lender with a signed receipt or copy of the loan  
4 agreement containing the information set out in subdivision (a)(1) of this  
5 section.

6 (b) The museum's general duties with respect to a loan include:

7 (1) Updating museum records whenever:

8 (A) A lender informs the museum of a change of address or  
9 change in the ownership of the loan; and

10 (B) The lender and museum negotiate a change in the terms  
11 of the loan;

12 (2) Providing the lender with notice about any update concerning  
13 the lender's loan; and

14 (3) Providing copies of §§ 13-5-1004, 13-5-1007, and 13-5-1009:

15 (A) To each lender who made a loan to the museum before  
16 the effective date of this subchapter and that loan is in the custody of the  
17 museum;

18 (B) To the lender at the time of the loan; and

19 (C) Upon a lender's request.

20  
21 13-5-1007. Duties of lender concerning the lender's loan.

22 (a) A lender who has made a loan to a museum shall promptly notify the  
23 museum in writing about a change in:

24 (1) The lender's address; and

25 (2)(A) A change in the ownership of the loan.

26 (B)(i) It shall be the responsibility of the owner of a  
27 loan to provide sufficient proof of his or her ownership to the museum.

28 (ii) If there is a dispute about ownership, the  
29 museum shall not be liable for its good faith refusal to surrender a loan  
30 unless ordered by a court of competent jurisdiction.

31 (b) If the museum notifies the lender by certified or registered mail,  
32 return receipt requested, that the loan is terminated, the lender shall:

33 (1) Acknowledge in writing the termination and inform the museum  
34 whether the lender wants the return of the loan; and

35 (2)(A) Retrieve the loan no later than six (6) months from the  
36 date of the museum's notice terminating the loan if the lender wants the loan

1 returned.

2 (B) If the lender fails to retrieve the loan within the  
3 time set out in subdivision (b)(2)(A) of this section, the loan shall be  
4 considered abandoned and ownership shall vest in the museum.

5  
6 13-5-1008. Lien for expenses for care of unclaimed property.

7 A museum has a lien on unclaimed property for any expenses incurred  
8 while caring for the unclaimed property.

9  
10 13-5-1009. Conservation measures.

11 (a) If immediate conservation is necessary to protect a loan, a  
12 museum's property, or the safety and welfare of the public and the museum's  
13 staff and the loan agreement between the museum and the lender does not  
14 provide otherwise, a museum has the right to apply conservation measures to a  
15 loan without the lender's permission.

16 (b) If immediate conservation is not necessary but conservation is  
17 needed to preserve the loan's value, a museum has the right to apply a  
18 conservation measure to a loan:

19 (1) After the museum has notified the lender by certified or  
20 registered mail, return receipt requested, that a conservation measure is  
21 needed; and

22 (2) If the lender or claimant:

23 (A) Does not respond to the notice within seven (7) days  
24 after the date on the return receipt showing receipt of the notice; or

25 (B) Refuses to consent to the protective measures and will  
26 not agree to the termination of the loan and the immediate retrieval of the  
27 loan.

28 (c) When a conservation measure is undertaken under subsection (a) or  
29 (b) of this section, the museum:

30 (1) Has a lien on the loan and on the proceeds of any  
31 disposition of the loan for the cost of the conservation measure; or

32 (2) Is not liable for any injury to or loss of the loan if the  
33 museum:

34 (A) Had a reasonable belief at the time conservation  
35 measures were taken that the measures were necessary; and

36 (B) Exercised reasonable care in the choice and

1 application of conservation measures.

2  
3 13-5-1010. Transfer of title to museum.

4 A museum which acquires ownership of property under this subchapter  
5 receives the property free of any claim by a claimant or lender.

6  
7 13-5-1011. Records retention schedule.

8 A museum shall keep all records relating to loans and undocumented  
9 property while the museum has possession of the property or for twenty-five  
10 (25) years, whichever period of time is longer.

11  
12 13-5-1012. Controls.

13 This subchapter controls in the event that it conflicts with any of the  
14 provisions of § 18-28-201 – 18-28-230.

15  
16 13-5-1013. Rules.

17 The Department of Parks and Tourism, in consultation with the  
18 Department of Arkansas Heritage, shall promulgate rules to carry out the  
19 provisions of this subchapter, including, but not limited to, rules  
20 concerning the form and substance of loan agreements.

21  
22 /s/ Mahony

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25 APPROVED: 4/13/2005

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