

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.

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

As Engrossed: H3/24/05

# A Bill

HOUSE BILL 2823

5 By: Representative Mahony  
6 By: Senator Bryles  
7

## 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

### Subtitle

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

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

22 13-5-1001. Short Title.

23 This subchapter shall be known and may be cited as the "Museum Property  
24 Act".  
25

26 13-5-1002. Purpose.

27 The purpose of this subchapter is to:

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

30 (2) Establish procedures to terminate loans of property to a  
31 museum;

32 (3) Allow a museum to conserve or dispose of loaned or  
33 undocumented property under certain conditions; and

34 (4) Limit actions to recover loaned or undocumented property.  
35

36 13-5-1003. Definitions.



1 As used in this subchapter:

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

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

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

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

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

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

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

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

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

19 (iii) Owns, borrows, cares for, exhibits, studies,  
20 archives, or catalogues property.

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

25 (6) "Permanent loan" means a loan to a museum for an indefinite  
26 term;

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

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

32 (9)(A) "Undocumented property" means property:

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

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

36 (B) Undocumented property shall not be construed to

1 include loaned property.

2  
3 13-5-1004. Procedure for obtaining ownership of an abandoned loan.

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

6 (1) The loan agreement has expired; or

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

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

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

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

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

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

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

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

27 (B) The State of Arkansas.

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

31 (d) The notice shall contain:

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

33 (2) A complete description of the loan;

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

36 (4) The lender's last known address if that information is

1 available from the museum's records; and

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

6  
7 13-5-1005. Museum's right to claim ownership of undocumented property.

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

11 (b) This section does not vest ownership of the property in the museum  
12 if the undocumented property is determined later to be stolen property.

13  
14 13-5-1006. Duties of museum concerning a loan.

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

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

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

18 (B) A description of the loan;

19 (C) The date of the loan; and

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

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

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

25 (1) Updating museum records whenever:

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

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

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

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

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

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

1 (C) Upon a lender's request.

2  
3 13-5-1007. Duties of lender concerning the lender's loan.

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

6 (1) The lender's address; and

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

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

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

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

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

17 (2)(A) Retrieve the loan no later than six (6) months from the  
18 date of the museum's notice terminating the loan if the lender wants the loan  
19 returned.

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

23  
24 13-5-1008. Lien for expenses for care of unclaimed property.

25 A museum has the right to claim a lien on unclaimed property for any  
26 expenses incurred while caring for the unclaimed property.

27  
28 13-5-1009. Conservation measures.

29 (a) If immediate conservation is necessary to protect a loan, a  
30 museum's property, or the safety and welfare of the public and the museum's  
31 staff and the loan agreement between the museum and the lender does not  
32 provide otherwise, a museum has the right to apply conservation measures to a  
33 loan without the lender's permission.

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

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

4           (2) If the lender or claimant:

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

7                   (B) Refuses to consent to the protective measures and will  
8 not agree to the termination of the loan and the immediate retrieval of the  
9 loan.

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

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

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

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

18                             (B) Exercised reasonable care in the choice and  
19 application of conservation measures.

20  
21          13-5-1010. Transfer of title to museum.

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

24  
25          13-5-1011. Records retention schedule.

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

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30          13-5-1012. Controls.

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

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34   /s/ Mahony