



SPONSOR: Rep. Spiegelman & Rep. Baumbach & Sen. Lopez &
Sen. Poore
Reps. Miro, D. Short; Sen. Cloutier

HOUSE OF REPRESENTATIVES
149th GENERAL ASSEMBLY

HOUSE BILL NO. 231

AN ACT TO AMEND TITLE 6 OF THE DELAWARE CODE RELATING TO ABANDONED, UNCLAIMED, OR
UNSOLICITED CULTURAL PROPERTY.

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

1 Section 1. Add new Chapter to Title 6 of the Delaware Code by making deletions as shown by strikethrough and
2 insertions as shown by underline as follows:

3 Chapter 50C. Abandoned Cultural Property Act

4 § 5001C. Definitions

5 1. “Lender” means a person whose name appears on records of a museum as the person legally entitled to, or
6 claiming to be legally entitled to, property held by the museum.

7 2. “Lender’s address” means the most recent address of a lender as shown on the museum’s records pertaining to
8 property on loan from the lender.

9 3. “Loan” means a deposit of property not accompanied by a transfer of title to that property.

10 4. “Museum” means an institution located in Delaware that:

11 (a) is operated by a person primarily for education, scientific, historic preservation, or aesthetic purposes;

12 and

13 (b) owns, borrows, cares for, exhibits, studies, archives, or catalogs property.

14 5. “Permanent loan” means a loan of property to a museum for an indefinite period.

15 6. “Person” means an individual, a nonprofit corporation, a trustee or legal representative, the state, a
16 political subdivision of the state, an agency of the state or political subdivision of the state, or a group of those
17 persons acting in concert.

18 (7) “Property” means a tangible object under a museum’s care that has intrinsic historic, artistic,
19 scientific, or cultural value.

20 (8) “Undocumented property” means property in the possession of a museum for which the museum
21 cannot determine the owner by reference to the museum’s records.

22 (9) “Unsolicited Donation” means any property that is left at property controlled by the museum that is from an
23 unknown source and might be reasonably assumed to have been intended as a gift to the museum.

24 (10) “Conservation measures”, as defined by the American Institute for Conservation of Historic and Artistic
25 Works, encompass actions taken toward the long-term preservation of cultural property. Conservation activities include
26 examination, documentation, treatment, and preventative care, supported by research and education.

27 § 5002C. Mailed notice; change of address or ownership

28 (a) A notice given by a museum under this chapter must be mailed to the lender’s last known address by
29 certified mail. Proper notice is given if the museum receives proof of receipt of the notice not more than thirty
30 days after notice was mailed.

31 (b) If (1) the lender’s address, or (2) the address of any designated agent of the lender changes, the lender
32 must provide written notice of the new address to the museum.

33 (c) If the ownership of property loaned to a museum changes while the museum is in possession of the
34 property, the new owner of the property must provide written notice to the museum of:

35 (1) the change of ownership of the property; and

36 (2) the name and address of the new owner.

37 § 5003C. Notice by publication

38 (a) A museum may give notice by publication under this chapter if the museum does not:

39 (1) know the identity of the lender or any designated agent of the lender;

40 (2) have an address last known for the lender or any designated agent of the lender; or

41 (3) receive proof of receipt of the notice by the person to whom the notice was sent within 30 days after
42 the notice was mailed.

43 (b) Notice by publication under subsection (a) of this section must be given at least once a week for 2 consecutive
44 weeks in a newspaper of general circulation in:

45 (1) the county in which the museum is located; and

46 (2) the county of the lender’s last known address, if the identity of the lender is known.

47 § 5004C. Notice; contents

48 In addition to any other information that may be required or seem appropriate, a notice given by a museum under
49 this chapter must contain the following:

50 (1) The name of:

51 (A) the lender; or

- 52 (B) any designated agent of the lender.
- 53 (2) The last known address of:
- 54 (A) the lender; or
- 55 (B) any designated agent of the lender.
- 56 (3) A brief description of the property on loan.
- 57 (4) The date of the loan; if known.
- 58 (5) The name of the museum.
- 59 (6) The name, address, and telephone number of the person or office at the museum to be contacted regarding the
- 60 property.

61 § 5005C. Acquiring title for permanent loaned or loaned property

62 (a) A museum may acquire title in the following manner to property that is on permanent loan to the museum or

63 that was loaned for a specified term that has expired:

64 (1) The museum must give notice that the museum is terminating the loan of the property.

65 (2) The notice that the loan of the property is terminated must include a statement containing

66 substantially the following information:

67 “The records at (name of museum) indicate that you have property on loan to it. The museum hereby

68 terminates the loan. If you desire to claim the property, you must contact the museum, establish your ownership of

69 the property, and make arrangements to collect the property. If you do not contact the museum, you will be

70 considered to have donated the property to the museum.”.

71 (3) If the lender does not respond to the notice of termination within 60 days after the notice required by

72 this chapter by filing a notice of intent to preserve an interest in the property on loan, clear and unrestricted title is

73 transferred to the museum 60 days after the notice required by this chapter was completed.

74 (b) If the loan of the property to a museum is not considered a permanent loan and does not have a specific

75 expiration date, the property is considered abandoned if there has not been any written communication for at least 7 years

76 after the date the museum took possession of the property between:

77 (1) the lender or the lender’s designated agent; and

78 (2) the museum.

79 § 5006C. Acquiring title, undocumented property, notice

80 A museum may acquire title to undocumented property held by the museum for at least 3 years as follows:

81 (1) The museum must give notice that the museum is asserting title to the undocumented property.

82 (2) The notice that the museum is asserting title to the property must include a statement containing substantially
83 the following information:

84 “The records of (name of museum) fail to indicate the owner of record of certain property in its possession. The
85 museum hereby asserts title to the following property: (general description of property). If you claim ownership or other
86 legal interest in this property, you must contact the museum, establish ownership of the property, and make arrangements to
87 collect the property. If you fail to do so within 60 days, you will be considered to have waived any claim you may have had
88 to the property.”.

89 (3) If a lender does not respond to the notice within 60 days by giving a written notice of intent to retain an
90 interest in the property on loan, the museum’s title to the property becomes absolute.

91 § 5007C. Acquiring title, unsolicited donations, notice

92 A museum may acquire title to unsolicited donations found on museum property as follows:

93 (1) Unsolicited donations are conclusively presumed to be a gift to the museum if ownership is not claimed by a
94 person or individual within 60 days after its discovery and notice is given by the museum under this section.

95 (2) Undocumented property found in the collection(s) of a museum are not unsolicited donations and are subject
96 to § 5006C of this chapter.

97 (3) The museum must give notice that the museum is asserting title to any unsolicited donation.

98 (4) Notice that the museum is asserting title to the unsolicited property must include a statement containing
99 substantially the following information:

100 “The following property was found at (name of museum) and is presumed to be a donation to the museum. The
101 museum hereby asserts title to the following property: (general description of property). Anyone claiming ownership or
102 other legal interest in this property must contact the museum, establish ownership of the property, and make arrangements
103 to collect the property. If you fail to do so within 60 days of notice required under this section, you will have waived any
104 claim to this unsolicited property.

105 (5) Notice by publication under subsection (3) of this section must be given at least once a week for 2 consecutive
106 weeks in a newspaper of general circulation in the county in which the museum is located.

107 § 5008C. Conservation measures

108 Unless there is a written loan agreement to the contrary, a museum may apply conservation measures to property
109 on loan to the museum without the lender’s permission or formal notice:

110 (1) If:

111 (A) action is required to protect the property on loan or other property in the custody of the museum; or

112 (B) the property on loan is a hazard to the health and safety of the public or the museum staff; and
113 (2) if:
114 (A) the museum is unable to reach the lender at the lender's last known address within 3 days before the
115 time the museum determines action is necessary; or
116 (B) the lender does not respond or will not agree to the protective measures the museum recommends
117 and does not terminate the loan and retrieve the property within 3 days.
118 § 5009C. Conservation measures, lien, liability
119 If a museum applies conservation measures to property under § 5008C of this chapter or with the agreement of the
120 lender, unless the agreement provides otherwise, the museum:
121 (1) acquires a lien on the property in the amount of the conservation measure costs incurred by the museum; and
122 (2) is not liable for injury to or loss of the property if the museum:
123 (A) had a reasonable belief at the time the conservation measure action was taken that the action was
124 necessary to protect the property on loan or other property in the custody of the museum, or that the property on
125 loan was a hazard to the health and safety of the public or the museum staff; and
126 (B) exercised reasonable care in the choice and application of conservation measures.

SYNOPSIS

This bill creates an Abandoned Cultural Property Act. The act allows museums to establish title to property that has been donated or left with the museum after any loan period has terminated and the lender cannot be found.

Currently such assets drain the museum resources by taking up space and having to be cared for.

Museums need a process by which they can establish clear title to abandoned, unclaimed, or unsolicited property.

This law will allow more efficient use of museum funds and will assist museums to conserve, display, and ethically dispose of abandoned, unclaimed, or unsolicited property.

This bill is modeled after Indiana's law. Delaware is 1 of only 4 states that has no law relating to Abandoned Cultural Property.