

## CHAPTER 109

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

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

C.46:30D-1 Short title.

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

C.46:30D-2 Findings, declarations relative to unclaimed property on loan to a museum.

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

Therefore, 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.

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

C.46:30D-3 Definitions relative to unclaimed property on loan to a museum.

3. As used in this act:

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

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

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

“Museum” means a public or private nonprofit agency or institution, and any 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.

“Property” means tangible animate or inanimate objects.

C.46:30D-4 Notice of intent to terminate a loan of property.

4. a. 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.

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

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

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

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

the name and address of the museum; and

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

C.46:30D-5 Notice to lender of intention to terminate a loan of property.

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

If the museum identifies the lender or a potential claimant and the last known address of the lender or potential claimant, the notice shall be sent to the lender or potential claimant by certified mail, return receipt requested, to the last known address. Notice shall be 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 shall be deemed to be the date of delivery to the person to whom it was sent.

b. A notice of intent to terminate a loan of property sent to the lender or a potential claimant pursuant to subsection a. of this section shall include, in addition to the information required by subsection b. of section 4 of this act, a statement indicating:

the intent of the museum to terminate the loan;

the date of the notice;

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

that failure to contact the museum within 180 days after the date of the notice will result in the loss of title to or an interest in the property pursuant to section 7 of this act.

C.46:3D-6 Notice by publication of intent.

6. a. If a museum intends to terminate a loan of property and has been unable to give notice in accordance with section 5 of this act, the museum shall give notice by publication of intent to terminate a loan of property. Publication shall be by means of a notice 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 and in which the last known address of the lender, if known, is located.

b. A published notice of intent to terminate a loan shall include, in addition to the information required in sections 4 and 5 of this act, a request that any person who has knowledge of the lender or potential claimant and where the lender or potential claimant may be located should provide written notice to the museum. If such a written notice is received by the museum, the museum shall provide the notice to the lender or potential claimant required pursuant to section 5 of this act.

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

C.46:30D-7 Acquisition of good title to property.

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

The museum provides, on or after the effective date of this act, notice pursuant to section 5 of this act and receives a return receipt showing delivery of the notice to the lender or a potential claimant within 30 days of the mailing of the notice, but the museum is not contacted by the lender or potential claimant within 180 days after the date of the notice; and

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

C.46:30D-8 Acquisition of good title by purchaser.

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

b. No action shall 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 in accordance with this act.

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

d. Unless there is evidence of bad faith or gross negligence, a museum shall 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.

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

C.46:30D-9 Actions by museum relative to loan of property.

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

- (1) make and retain a written record containing:  
the name, address, and telephone number of the lender,  
a description of the property in sufficient detail for ready identification,  
the beginning date of the loan, and  
the expiration date of the loan;
  - (2) provide the lender with a signed receipt or agreement containing, at least, the information set forth in paragraph (1) of this subsection; and
  - (3) inform the lender in writing of the existence of this act and provide the lender with a copy of this act upon the lender's request.
- b. With respect to any property on loan to a museum, a museum shall:
- (1) 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
  - (2) inform the lender in writing of the existence of this act when renewing or updating the record and provide the lender with a copy of this act upon the lender's request.

C.46:30D-10 Notification of change in address, title; proof established by purchaser.

10. a. The lender, or any purchaser, donee, successor, or other assignee of the lender's interest in the property, shall 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.

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

C.46:30D-11 Agreements between lender and museum; application of act.

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

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

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

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

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

12. This act shall take effect immediately.

Approved August 18, 2011.