

INTRODUCTION

The Georgia Museum Property Act was enacted in 2006 to provide a standard for keeping records of ownership of property for loans to a museum in the state. It provides a process in the event that a loan is abandoned and for conservation of loans entrusted to a museum.

GEORGIA MUSEUM PROPERTY ACT

§ 10-1-529.1. Short title

This article shall be known and may be cited as the "Georgia Museum Property Act."

§ 10-1-529.2. Definitions

As used in this article, the term:

- (1) "Archives repository" means a nonprofit organization or a public agency whose primary functions include selecting, preserving, and making available records of historical or enduring value and that is open to the public on a regular basis. Archives repository does not include a public library.
- (2) "Loan" means the placement of property with a museum or archives repository that is not accompanied by a transfer of title of the property to the museum or archives repository and for which there is some record that the owner intended to retain title to the property. Loan does not include transfers between museums, between archives repositories, or between museums and archives repositories unless the transferring institution specifically provides in writing that the transfer is a loan under this article.
- (3) "Museum" means a nonprofit organization or a public agency that is operated primarily for the purpose of collecting, cataloging, preserving, or exhibiting property of educational, scientific, historic, cultural, or aesthetic interest and that is open to the public on a regular basis. Museum does not include a public library.
- (4) "Property" means personal property.

§ 10-1-529.3. Accuracy of museum or archive records

(a) Each museum or archives repository shall keep accurate records of all property on loan to the museum or archives repository, including the name and address of the owner, if known, and the beginning and ending date of the loan period. At the time that a person makes a loan to a museum or archives repository, the museum or archives repository shall give the owner of the property a copy of this article. If a museum or archives repository is notified of a change in the ownership of any property loaned to a museum or archives repository, the museum or archives repository shall inform the new owner of the provisions of the loan agreement and shall send the new owner a copy of this article. Not less than 90 days before a museum or archives repository changes its address or dissolves, the museum or archives repository shall notify all owners of that change of address or dissolution. If a museum or archives repository becomes the owner of property under Code Section 10-1-529.4 or 10-1-529.5, the museum or archives repository shall

maintain any records that the museum or archives repository has regarding the property for not less than two years after the date on which the museum or archives repository becomes the owner of the property.

(b) The owner of property loaned to a museum or archives repository shall provide the museum or archives repository with written notice of any change of the owner's address, of the owner's designated agent, of the designated agent's address, and of the name and address of the new owner if there is a change in the ownership of the property loaned to the museum or archives repository.

§ 10-1-529.4. Abandonment of property loaned to a museum or archives repository; museum acquisition of abandoned property

(a) Property loaned to a museum or archives repository whose loan has an expiration date is abandoned when there has not been written contact between the owner and the museum or archives repository for at least seven years after that expiration date. If the loan has no expiration date, the property is abandoned when there has not been written contact between the owner and the museum or archives repository or their successors or assigns for at least seven years after the museum or archives repository took possession of the property.

(b) (1) If a museum or archives repository wishes to acquire title to abandoned property, the museum or archives repository shall, not less than 60 days after property is abandoned under subsection (a) of this Code section, send a notice by certified mail or statutory overnight delivery to the owner's last known address. A copy of such notice shall be simultaneously sent to any known lienholder at such lienholder's last known address. The notice shall contain all of the following:

(A) A statement that the loan is terminated and that the property is abandoned;

(B) A description of the property;

(C) A statement that the museum or archives repository will become the owner of the property if the present owner does not submit a written claim to the property to the museum or archives repository within 60 days after receipt of the notice; and

(D) A statement that the museum or archives repository will make arrangements with the owner to return the property to the owner or dispose of the property as the owner requests if the owner submits a written claim to the property to the museum or archives repository within 60 days after receipt of the notice.

(2) The notice provided for in subsection (a) of this Code section shall be substantially in the following form:

NOTICE OF ABANDONMENT OF PROPERTY

To: (name of owner)

(address of owner)

Please be advised that the loan agreement is terminated for the following property (describe the property in sufficient detail to identify the property):

The above-described property that you loaned to (name and address of museum or archives repository) will be considered abandoned by you and will become the property of (name of museum or archives repository) if you fail to submit to the museum or archives repository a written claim to the property within 60 days after receipt of this notice. If you do submit a written claim to the property within 60 days after receipt of this notice, (name of museum or archives repository) will arrange to return the property to you or dispose of the property as you request. The cost of returning the property to you or disposing of the property is your responsibility unless you have made other arrangements with the museum or archives repository. (name of person to contact at museum or archives repository and address of museum or archives repository).

(c) If the notice sent by the museum or archives repository under subsection (b) of this Code section is returned to the museum or archives repository undelivered, the museum or archives repository shall give notice of the abandoned property by publication once a week for two consecutive weeks in the official county organs of the county in which the museum or archives repository is situated and the county of the owner's last known address, and on the organization's website, if applicable, containing the following:

(1) The name and last known address of the present owner;

(2) A description of the property;

(3) A statement that the property is abandoned and that the museum or archives repository will become the owner of the property if no person can prove ownership of the property;

(4) A statement that a person claiming ownership of the property shall notify the museum or archives repository in writing of that claim within 60 days after publication of the last legal notice; and

(5) The name and mailing address of the person who may be contacted at the museum or archives repository if a person wants to submit a written claim to the property.

(d) If the museum or archives repository receives a timely written claim for the property from the owner or the owner's agent in response to the notice provided under subsection (b) or (c) of this Code section the museum or archives repository shall return the property to the owner or dispose of the property as the owner requests. The owner shall advise the museum or archives repository in writing as to how the property shall be disposed of or returned to the owner. Costs of returning the property or disposing of the property shall be the responsibility of the owner unless the owner and the museum or archives repository have made other arrangements.

(e) If the museum or archives repository receives a timely written claim for the property from a person other than the person who loaned the property to the museum or archives repository in response to the notice provided under subsection (b) or (c) of this Code section, the museum or archives repository shall, within 60 days after receipt of the written claim, determine if the claim is valid. A claimant shall submit proof of ownership with the claim. If more than one person submits a timely written claim, the museum or archives repository may delay its determination of ownership until the competing claims are resolved by agreement or legal action. If the museum or archives repository determines that the claim is valid or if the competing claims are resolved by agreement or judicial action, the museum or archives repository shall return the property to the claimant submitting the valid claim or dispose of the property as the valid claimant requests. Costs of returning the property or disposing of the property shall be the responsibility of the valid claimant.

(f) If the museum or archives repository does not receive a timely written claim to the property or if the museum or archives repository determines that no valid timely claim to the property was submitted, the museum or archives repository becomes the owner of the property. The museum or archives repository becomes the owner of the property on the day after the period for submitting a written claim ends or on the day after the museum or archives repository determines that no valid timely written claim was submitted. The museum or archives repository owns the property free from all claims.

§ 10-1-529.5. Acquisition of undocumented property

(a) Property in the possession of a museum or archives repository which the museum or archives repository has reason to believe may be on loan and for which the museum or archives repository does not know the owner or have any reasonable means of determining the owner becomes the property of the museum or archives repository if no person has claimed the property within seven years after the museum or archives repository or a predecessor or assignor of such museum or archives repository took possession of the property. The museum or archives repository becomes the owner of the property on the day after the seven-year period ends and after following the notification process outlined in subsection (b) of this Code section free from all claims.

(b) The museum or archives repository that wishes to acquire title to undocumented property described in subsection (a) of this Code section shall provide public notice in the manner described in Code Section 10-1-529.4.

(c) On or after July 1, 2006, property that:

(1) Is found in or on property controlled by the museum;

(2) Is from an unknown source; and

(3) Might reasonably be assumed to have been intended as a gift to the museum

is conclusively presumed to be a gift to the museum if ownership of the property is not claimed by a person within 90 days of its discovery.

§ 10-1-529.6. Application of conservation measures to property on loan to museum or archives

(a) Unless there is a written loan agreement to the contrary, a museum or archives repository may apply conservation measures to property on loan to the museum or archives repository without the lender's permission or formal notice if action is required to protect the property on loan or other property in the custody of the museum or archives repository or the property on loan is a hazard to the health and safety of the public or the museum or archives repository staff, and either:

(1) The museum or archives repository is unable to reach the lender at the lender's last known address within three days before the time the museum or archives repository determines action is necessary; or

(2) The lender does not respond or will not agree to the protective measures the museum or archives repository recommends and does not terminate the loan and retrieve the property within three days.

(b) If a museum or archives repository applies conservation measures to property under this article, or with the agreement of the lender, unless the agreement provides otherwise, the museum or archives repository acquires a lien on the property in the amount of the costs incurred by the museum or archives repository.

(c) The museum or archives repository is not liable for injury to or loss of the property if the museum or archives repository:

(1) Had a reasonable belief at the time the action was taken that the action was necessary to protect the property on loan or other property in the custody of the museum or archives repository or that the property on loan was a hazard to the health and safety of the public or the museum or archives repository staff; and

(2) Exercised reasonable care in the choice and application of conservation measures.

§ 10-1-529.7. American Indian human remains and burial objects excluded

This article shall not apply to objects held by museums pursuant to Part 1 of Article 7 of Chapter 12 of Title 44, relating to American Indian human remains and burial objects held by museums.