



FACT SHEET

Proposed Minnesota Museum Property Act

House File 1645 / Senate File 1559

The issue

Currently, 31 states, including Wisconsin, Iowa, South Dakota, North Dakota, Illinois, Indiana and Missouri have enacted statutes that enable museums to resolve the problem of unclaimed and undocumented objects. Without such legislation, museums hesitate to deal with the unclaimed and undocumented items because of potential liabilities should the original owner appear and prove ownership. Abandoned property legislation, as this type of law is commonly called, establishes the mechanism by which a museum can terminate a loan and take title to unclaimed property. A museum can then use the property for any purpose related to its mission, or if unrelated to its institutional mission, the museum can transfer the property to another repository or dispose of it. It is important to note that this law is not regulatory in nature, but rather a tool created for a museum's voluntary use. It does not require museums to convert privately owned material to museum property, but if a museum has a need to do so, the law would place the legal means at its disposal.

Museums accumulate unclaimed and undocumented objects when lenders and donors do not claim items loaned to a museum for an exhibit, identification or evaluation, or when a donor simply leaves the property "on the doorstep." The past practice of "permanent loans" between lenders and museums has resulted in numerous items being left in institutions for generations. As time passes, museums have an increasingly difficult time tracking the rightful owners to the property. Much of the unclaimed and undocumented property currently in museums has been held for decades before relationships between lenders and institutions were formalized with written loan agreements, temporary deposit receipts and other documentation now in use. Without legal title to unclaimed or undocumented objects, museums can only make limited use of these items while bearing all the costs and burdens of providing storage space, record keeping, climate control, security, inventory, insurance and general overhead.



What the proposed legislation covers

The proposed legislation covers two types of property:

1. Unclaimed Loans – Property in a museum’s possession that is on loan, the owner of which has failed to keep in touch with the museum. These may be indefinite or permanent loans, or loans whose terms have expired.
2. Undocumented Property – Property in a museum’s possession of unknown ownership, for which the institution has no records of how or from whom it was acquired, including so-called “doorstep donations.”

How the proposed legislation works

Patterned after laws in effect in other states, the proposed legislation establishes that a person making a loan to a museum has a responsibility to provide the museum with their current address. The legislation also establishes a notification process by which a museum/historical society may claim ownership of an object and sets out time periods for the notification process. The legislation stipulates the information that each notice must contain.

➤ For unclaimed loans:

1. If there has not been contact between the museum and the original owner for seven years, the museum/historical society is required to give notice of termination of the loan by:
 - ➔ Certified mail, return receipt requested, to the lender at the most recent address.
 - ➔ Public notice. After 60 days without response to the certified letter, the museum/historical society must publish notice in newspapers of general circulation in the area where the museum is located.
2. After 60 days from the date of the published notice, if the owner has not made written claim for the property then title shall vest with the museum/historical society. At this point, the museum/historical society is the lawful owner of the property and is free from all claims of the owner and heirs.

➤ For undocumented property (items without a written loan agreement):

1. Property must be held by the museum/historical society for a minimum of seven (7) years without claim.
2. The museum/historical society is required to give notice of abandonment of the property by:



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- If the museum/historical society has no owner on record or no known address on record, then the museum/historical society must publish notice in a newspaper of general circulation in the county where the museum is located.
 - After 60 days from the date of the published notice, if the owner has not made written claim for the property then title shall vest with the museum/historical society. At this point, the museum/historical society is the lawful owner of the property and is free from all claims of the owner and heirs.
- For so-called “doorstep donations”:
1. After the date of passage (of the Act) unsolicited property left at a museum or historical society will be presumed to be a gift to the museum/historical society if no person claims ownership within 90 days.

What if a Museum needs to apply conservation measures to an object?

Without clear title to an artifact, museums/historical societies are often hesitant to apply conservation measures to artifacts that need repair. This bill would allow museums/historical societies to apply conservation measures to objects of uncertain ownership when museum staff determines that it is necessary to protect the object itself or if the object is a hazard to other objects or the health or safety of museum staff.

Why museums/historical societies cannot apply existing statutes for unclaimed property

Existing statutes apply primarily to property left in banks and other saving institutions, for which the owners are known but are unreachable. In these instances, after a notice procedure and waiting period, the property, if not claimed, will go to the State. In the case of museum and historical society collections, “escheat” to the State is inappropriate because museum collections often have specialized storage conditions to preserve historic, cultural, artistic or scientific value. Museums, archives and historical societies have the expertise to provide the specialized care required to insure that the intrinsic value of an artifact is recognized and preserved.

Potential Opposition to Museum Property Act

The legislation could be viewed as museums invoking “eminent domain” by “taking” title to property that belongs to private individuals. In the majority of cases where the legislation would be utilized, the property has been held by the museums for many years and the organizations are trying to responsibly resolve outstanding problems. In some cases, the notification process will bring forth the rightful owner and the museum can return the property or negotiate a donation or loan with fixed time period. However, often unclaimed and undocumented property



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left in museums has little or no value which is why the property owner is not interested in return. Many cases of unclaimed loans and undocumented property come to notice because the museum finds that certain property no longer is appropriate for its purposes but it cannot “deaccession” the property. Deaccessioning is the term museums use to formally remove items from its collections and entails careful review and proper disposal or transfer to another suitable organization. Museums, libraries and archives, and historical societies should not be required to continue to spend financial resources in perpetuity to care for property they do not own or may not want to retain. The notification mechanism in the proposed legislation is based on existing statutes to provide reasonable notice to owners and to require diligent effort by museums.

Organizations Supporting Minnesota Museum Property Legislation

Becker County Historical Society
Blue Earth County Historical Society
Chisago County Historical Society
Clearwater County Historical Society
Dakota City Heritage Village
Gammelgården Museum
Goodhue County Historical Society
Grant County Historical Society
McLeod County Historical Society
Minnesota Association of Museums
Minnesota Historical Society
St. Louis County Historical Society
Science Museum of Minnesota
Tweed Museum of Art, University of Minnesota Duluth
White Bear Lake Area Historical Society
Wabasha County Historical Society