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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2012

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A N A C T

RELATING TO PROPERTY -- THE RHODE ISLAND MUSEUM PROPERTY ACT

Introduced By: Representatives Lally, and Keable

Date Introduced: May 09, 2012

Referred To: House Municipal Government

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 34 of the General Laws entitled "PROPERTY" is hereby amended by
2 adding thereto the following chapter:

3 CHAPTER 44.1

4 THE RHODE ISLAND MUSEUM PROPERTY ACT

5 **34-44.1-1. Definitions.** – As used in this chapter, the following words shall, unless, the
6 context clearly requires otherwise, have the following meanings:

7 (1) "Documented property" means property under a museum's care for which the
8 museum has a reasonable means of determining the owner.

9 (2) "Lender" means a person (an individual, association, partnership, corporation, trust,
10 estate, or other entity) whose name appears on the records of a museum as the person legally
11 entitled to, or claiming to be legally entitled, or who establishes legal entitlement to, property held
12 by the museum or, if such person is deceased, the heirs of such person as determined by a court.

13 (3) "Loan" or "loaned" means a deposit with or deposited with a museum for a specified
14 period of time if title to the property is not transferred to the museum or if the agreement for the
15 deposit does not include a provision that the museum acquires title at some time after the deposit
16 is made or an option for the museum to acquire title at some time after the deposit is made, but
17 does not include a consignment of property for sale.

18 (4) "Museum" means an organized and permanent nonprofit or public institution in
19 Rhode Island operated by, or a division of, a nonprofit corporation, trust, association, educational

1 institution or a public agency, which is primarily educational, scientific, historic preservation,
2 cultural or aesthetic in purpose and which owns, borrows, collects, and cares for, studies,
3 archives, catalogs, or exhibits property. Museums shall include, but not be limited to, historical
4 societies, parks, historic sites, landmarks, monuments, botanical gardens, arboreta, zoos, nature
5 centers, planetariums, aquaria, technology centers, archives and libraries, and art, history, science
6 and natural history museums.

7 (5) "Property" means a tangible animate or inanimate object under a museum's care that
8 has intrinsic, educational, scientific, historical, artistic, aesthetic, or cultural value.

9 (6) "Undocumented property" means property under a museum's care whose ownership
10 cannot be determined by reference to the museum's records, and for which the museum does not
11 have a reasonable means of determining the owner.

12 **34-44.1-2. Property held subject to a loan agreement.** – (a) Property subject to a loan
13 agreement which is on loan to a museum shall be deemed to be donated to the museum provided:

14 (1) No claim is made or action filed by the lender to recover the property after
15 termination or expiration of the loan;

16 (2) The museum has given notice as required under section 34-44.1-5; and

17 (3) No assertion of title has been filed within sixty (60) days from the date of the second
18 (2nd) published notice.

19 (b) A museum may terminate a loan of property if the property was loaned to the museum
20 for an indefinite term by providing notice to terminate pursuant to section 34-44.1-5. Property on
21 "permanent loan" shall be considered loaned for an indefinite term.

22 (c) If property was loaned to the museum for a specified term, the museum may give
23 notice of termination pursuant to section 34-44.1-5 of the loan at any time after expiration of the
24 specified term or earlier if permitted by the loan agreement.

25 (d) It shall be the responsibility of a lender of property loaned to a museum to provide the
26 museum with written notice of any change of the lender's address, of the lender's designated
27 agent, of the designated agent's address, and of the name and address of the new owner if there is
28 a change in the ownership of the property loaned to the museum.

29 (e) When a museum accepts a loan of property, the museum shall inform the lender of the
30 property, in writing, of the provisions of this chapter.

31 **34-44.1-3. Property held without a loan agreement.** – (a) Any property held by a
32 museum within the state, other than by terms of a written loan agreement, that has been held by
33 the museum for five (5) years or more and has remained unclaimed shall be deemed to be
34 abandoned and donated to the museum. Such property shall become the property of the museum,

1 provided:

2 (1) The museum has given notice pursuant to section 34-44.1-5; and

3 (2) No assertion of title has been filed for the property within sixty (60) days from the
4 date of the second (2nd) published notice.

5 **34-44.1-4. Accuracy of museum records.** – (a) Any museum applying section 34-44.1-2
6 or 34-44.1-3 to property in its possession shall, from the date of such application, keep accurate
7 records of all property on loan to the museum, including the name and address of the lender, if
8 known, and the beginning and ending date of the loan period in accordance with regulations
9 adopted under section 34-44.1-9.

10 (b) It shall be the responsibility of a lender, a lender's heir or legal agent, or a claimant to
11 notify the museum promptly, in writing, of a change in ownership of loaned property or if there is
12 a change in the name or address of the lender or claimant. If a museum is notified of a change in
13 the ownership of any property loaned to a museum, the museum shall inform the new owner of
14 the provisions of the loan agreement and shall send the new owner written notice as prescribed in
15 section 34-44.1-5 or in regulations adopted under section 34-44.1-9.

16 (c) A museum shall notify the lender or claimant of the museum's change of address or
17 dissolution. A museum shall retain all written records regarding property acquired under this
18 chapter for at least ten (10) years from the date that the museum acquired title to the property or
19 until dissolution of the museum, whichever occurs first.

20 **34-44.1-5. Notice requirements.** – (a) A museum shall give notice of abandonment of
21 property or of termination of a property mailing such notice by certified mail, return receipt
22 requested, to the last known lender at the most recent address of such lender as shown on the
23 museum's records.

24 (b) If the museum has no lender's name or no lender's address on record, or the museum
25 does not receive written proof of receipt of the mailed notice within thirty (30) days of the date
26 the notice was mailed, the museum shall publish a notice, at least once each week for two (2)
27 consecutive weeks, in a newspaper of general circulation in both the municipality in which the
28 museum is located and the municipality in which the most recent address shown on the museum's
29 records, if available, of the lender is located, or by other means as may be provided by regulations
30 issued under section 34-44.1-9.

31 (c) The published notice shall contain:

32 (1) The notice shall be entitled: "Notice of Abandonment";

33 (2) A brief and general description (including date of the property or the approximate
34 date the property came into the custody of the museum) of the unclaimed property;

1 (3) The lender's name, if known, and last known address;
2 (4) A request that all persons who may have any knowledge of the whereabouts of the
3 lender provide written notice to the museum;
4 (5) The name and address of the museum;
5 (6) The name, address, and contact information of the person to be contacted regarding
6 the property; and
7 (7) A statement that if written assertion of title is not presented by the lender to the
8 museum within sixty (60) days from the date of the second (2nd) published notice, the property
9 shall be considered abandoned and donated and shall become the property of the museum.
10 (d) For purposes of this section, if the loan of property was made to a branch of a
11 museum, the museum shall be considered to be located in the municipality in which the branch is
12 located. Otherwise the museum is located in the municipality in which it has its principal place of
13 business.
14 (e) A lender or claimant may file with the museum a written claim to the property held by
15 the museum. A written claim to the property shall:
16 (1) Contain an adequate description of the property to enable the museum to identify the
17 property;
18 (2) Be accompanied by documentation sufficient to establish the lender or claimant as
19 owner of the property; and
20 (3) Be signed under penalty or perjury by the lender or claimant, or by a person
21 authorized to act on behalf of the lender or claimant.
22 **34-44.1-6. Property vested in museum.** – (a) If the museum receives a timely written
23 claim to the property from the lender or the lender's agent in response to the notice provided
24 under section 34-44.1-5, the museum shall, within sixty (60) days after receipt of the written
25 claim, determine if the claim is valid. If the museum determines such claim to be valid, the
26 museum shall return the property to the lender or carry out the disposition of the property as the
27 lender requests. The lender/owner shall advise the museum in writing as to the disposition of the
28 property or how the property is to be returned to the lender/owner. Costs of returning the property
29 or the disposition of the property shall be the responsibility of the lender unless the lender/owner
30 and the museum have made other arrangements.
31 (b) If the museum receives a timely written claim to the property, as defined in subsection
32 34-44.1-5(e), from a person other than the person who loaned the property to the museum in
33 response to the notice provided under section 34-44.1-5, the museum shall, within sixty (60) days
34 after receipt of the written claim, determine if the claim is valid. If more than one person submits

1 a timely written claim, the museum may delay its determination of ownership until the competing
2 claims are resolved by agreement or judicial action. The museum shall not be obligated to initiate
3 legal action to resolve competing claims; legal action may be initiated by one of the claimants. If
4 the museum determines that a sole claim is valid, or if competing claims are resolved by
5 agreement or judicial action, the museum shall return the property to the claimant submitting the
6 valid claim or dispose of the property shall be the responsibility of the valid claimant unless the
7 lender/owner and the museum have made other arrangements.

8 (c) If no written claim to the property has been presented by the lender or owner or any
9 other claimant to the museum within sixty (60) days from the date of the second (2nd) published
10 notice, title to the property shall vest in the museum, free of all claims of the lender and of all
11 persons claiming under the lender.

12 (d) One who purchases or otherwise acquires property from a museum acquires good
13 title to the property if the museum has acquired title to the property under this chapter.

14 **34-44.1-7. Application of conservation measures to property on loan to a museum. –**

15 (a) Unless a written loan agreement provides otherwise, a museum may apply
16 conservation measures to, or dispose of, undocumented property or property on loan to the
17 museum without the lender's or claimant's permission or formal notice if immediate action is
18 required to protect the property on loan or other property in the custody of the museum, or
19 because the property on loan has become a hazard to the health and safety of the public or to the
20 museum's staff, and if one of the following applies:

21 (1) The property poses an immediate risk of harm to the museum's staff or collection or
22 to the general public, in which case the museum may dispose of the property without delay and
23 shall notify the lender or claimant of the action taken within thirty (30) days; or

24 (2) The museum is unable to reach the lender or claimant at the lender's or claimant's
25 address or phone number and is required to take action within thirty (30) days; or

26 (3) The museum contacts the lender or claimant and the lender or claimant does not agree
27 to the protective measures the museum recommends and does not, or is unable to terminate the
28 loan and collect the property within the time the museum determines the action is necessary.

29 (b) Unless a written loan agreement provides otherwise, a museum that applies
30 conservation measures to or disposes of loaned property in accordance with subsection (a):

31 (1) Acquires and may enforce a lien on the loaned property in the amount of the costs
32 incurred by the museum; and

33 (2) Is not liable to the lender or claimant for damage to, or loss of, the loaned property so
34 long as the museum had:

1 (i) A reasonable belief at the time the action was taken that the action was necessary; and
2 (ii) Exercised reasonable care in choosing and applying such conservation measures.

3 **34-44.1-8. Scope.** – This chapter applies to all property held by or in the custody of a
4 museum on or after the effective date of the act creating this chapter. This chapter does not
5 preclude a museum from availing itself of any other statutory or judicial method of establishing
6 or perfecting title to property in the museum's custody.

7 **34-44.1-9. Regulations.** – The Rhode Island state council on the arts may only adopt
8 regulations in accordance with this chapter relative to the form of notification to persons loaning
9 property under section 34-44.1-5.

10 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO PROPERTY -- THE RHODE ISLAND MUSEUM PROPERTY ACT

- 1 This act would create a procedure for museums to dispose of certain items of property
- 2 that they no longer wish to retain.
- 3 This act would take effect upon passage.

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