

HOUSE No. 3138

The Commonwealth of Massachusetts

PRESENTED BY:

Daniel E. Bosley

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act relative to museums and archive repositories.

PETITION OF:

NAME:

Daniel E. Bosley

DISTRICT/ADDRESS:

1st Berkshire

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 3393 OF 2007-2008.]

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT RELATIVE TO MUSEUMS AND ARCHIVE REPOSITORIES.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 The General Laws are hereby amended by inserting after chapter 200A the following chapter:

2 Chapter 200B. The Massachusetts Museum Property Act

3 Section 1. As used in this chapter, the following words shall, unless the context clearly otherwise
4 requires, have the following meanings:-

5 "Archives repository", a nonprofit organization or a public agency whose primary functions include
6 selecting, preserving, and making available records of historical or enduring value, and that is open to the
7 public on a regular basis. Archives repository does not include a public library.

8 "Loan" , the placement of property with a museum or archives repository that is not accompanied by a
9 transfer of title of the property to the museum or archives repository and for which there is some record
10 that the owner intended to retain title to the property. Loan does not include transfers between museums,
11 between archives repositories, or between museums and archives repositories unless the transferring
12 institution specifically provides in writing that the transfer is a loan under this section.

13 "Museum", a nonprofit organization or a public agency that is operated primarily for the purpose of
14 collecting, cataloging, preserving, or exhibiting property of educational, scientific, historic, cultural, or
15 aesthetic interest and that is open to the public on a regular basis. Museum does not include a public
16 library.

17 "Property", personal property.

18 Section 2. (a) Each museum or archives repository shall keep accurate records of all property on loan to
19 the museum or archives repository, including the name and address of the owner, if known, and the
20 beginning and ending date of the loan period. At the time that a person makes a loan to a museum or
21 archives repository, the museum or archives repository shall give the owner of the property a copy of this
22 section. If a museum or archives repository is notified of a change in the ownership of any property
23 loaned to a museum or archives repository, the museum or archives repository shall inform the new
24 owner of the provisions of the loan agreement and shall send the new owner a copy of this section. Not
25 less than 90 days before a museum or archives repository changes its address or dissolves, the museum or
26 archives repository shall notify all owners of that change of address or dissolution. If a museum or
27 archives repository becomes the owner of property pursuant to this chapter, the museum or archives
28 repository shall maintain any records that the museum or archives repository has regarding the property
29 for not less than 2 years after the date on which the museum or archives repository becomes the owner of
30 the property.

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

35 Section 3. (a) Property loaned to a museum or archives repository whose loan has an expiration date is
36 abandoned when there has not been written contact between the owner and the museum or archives
37 repository for at least 7 years after that expiration date. If the loan has no expiration date, the property is
38 abandoned when there has not been written contact between the owner and the museum or archives
39 repository for at least 7 years after the museum or archives repository took possession of the property.

40 (b) If a museum or archives repository wishes to acquire title to abandoned property, the museum or
41 archives repository shall, not less than 60 days after property is abandoned pursuant to this section, send a
42 notice by certified mail with return receipt requested to the owner's last known address. The notice shall
43 contain all of the following: a statement that the loan is terminated and that the property is abandoned; a
44 description of the property; a statement that the museum or archives repository will become the owner of
45 the property if the present owner does not submit a written claim to the property to the museum or
46 archives repository within 60 days after receipt of the notice; and a statement that the museum or archives
47 repository will make arrangements with the owner to return the property to the owner or dispose of the
48 property as the owner requests if the owner submits a written claim to the property to the museum or
49 archives repository within 60 days after receipt of the notice. This notice shall be substantially in the
50 following form:

51 NOTICE OF ABANDONMENT OF PROPERTY

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

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

62 (c) If the notice sent by the museum or archives repository pursuant to this section is returned to the
63 museum or archives repository undelivered, the museum or archives repository shall give notice of the
64 abandoned property by publication, and the organization's website, if applicable, containing the
65 following: the name and last known address of the present owner; a description of the property; a
66 statement that the property is abandoned and that the museum or archives repository will become the
67 owner of the property if no person can prove their ownership of the property; a statement that a person
68 claiming ownership of the property shall notify the museum or archives repository in writing of that claim
69 within 60 days after publication of the last legal notice; and the name and mailing address of the person
70 who may be contacted at the museum or archives repository if a person wants to submit a written claim to
71 the property.

72 (d) If the museum or archives repository receives a timely written claim for the property from the owner
73 or the owner's agent in response to the notice sent pursuant to this section, the museum or archives
74 repository shall return the property to the owner or dispose of the property as the owner requests. The
75 owner shall advise the museum or archives repository in writing as to how the property shall be disposed
76 of or returned to the owner. Costs of returning the property or disposing of the property shall be the
77 responsibility of the owner unless the owner and the museum or archives repository have made other
78 arrangements.

79 (e) If the museum or archives repository receives a timely written claim for the property from a person
80 other than the person who loaned the property to the museum or archives repository in response to the
81 notice sent pursuant to this section, the museum or archives repository shall, within 60 days after receipt
82 of the written claim, determine if the claim is valid. A claimant shall submit proof of ownership with the
83 claim. If more than one person submits a timely written claim, the museum or archives repository may
84 delay its determination of ownership until the competing claims are resolved by agreement or legal action.
85 If the museum or archives repository determines that the claim is valid, or if the competing claims are

86 resolved by agreement or judicial action, the museum or archives repository shall return the property to
87 the claimant submitting the valid claim or dispose of the property as the valid claimant requests. Costs of
88 returning the property or disposing of the property shall be the responsibility of the valid claimant.

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

95 Section 4. (a) Property in the possession of a museum or archives repository which the museum or
96 archives repository has reason to believe may be on loan and, for which the museum or archives
97 repository does not know the owner, or have any reasonable means of determining the owner, becomes
98 the property of the museum or archives repository if no person has claimed the property within 7 years
99 after the museum or archives repository took possession of the property. The museum or archives
100 repository becomes the owner of the property on the day after the 7-year period ends, and after following
101 the notification process outlined pursuant to this section, free from all claims.

102 (b) The museum or archives repository that wishes to acquire title to undocumented property described in
103 subsection (a) shall provide public notice in the manner described in section 2.

104 Section 5. Property that is found in or on property controlled by the museum; is from an unknown
105 source; and might reasonably be assumed to have been intended as a gift to the museum, is conclusively
106 presumed to be a gift to the museum if ownership of the property is not claimed by a person within 90
107 days of its discovery.

108 Section 6. (a) Unless there is a written loan agreement to the contrary, a museum may apply conservation
109 measures to property on loan to the museum without the lender's permission or formal notice if action is
110 required to protect the property on loan or other property in the custody of the museum, or the property on
111 loan is a hazard to the health and safety of the public or the museum staff, and either: the museum is
112 unable to reach the lender at the lender's last known address within 3 days before the time the museum
113 determines action is necessary; or the lender does not respond or will not agree to the protective measures
114 the museum recommends and does not terminate the loan and retrieve the property within 3 days.

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

118 (c) The museum is not liable for injury to or loss of the property if the museum: had a reasonable belief at
119 the time the action was taken that the action was necessary to protect the property on loan or other
120 property in the custody of the museum, or that the property on loan was a hazard to the health and safety
121 of the public or the museum staff, and exercised reasonable care in the choice and application of
122 conservation measures.

123 Section 7. This act shall be known as "The Massachusetts Museum Property Act".