

## **IC 32-34-5**

### **Chapter 5. Property Loaned to Museums**

#### **IC 32-34-5-1**

##### **"Lender" defined**

Sec. 1. As used in this chapter, "lender" means a person whose name appears on the records of a museum as the person legally entitled to, or claiming to be legally entitled to, property held by the museum.

*As added by P.L.2-2002, SEC.19.*

#### **IC 32-34-5-2**

##### **"Lender's address" defined**

Sec. 2. As used in this chapter, "lender's address" means the most recent address of a lender as shown on the museum's records pertaining to property on loan from the lender.

*As added by P.L.2-2002, SEC.19.*

#### **IC 32-34-5-3**

##### **"Loan" defined**

Sec. 3. As used in this chapter, "loan" means a deposit of property not accompanied by a transfer of title to the property.

*As added by P.L.2-2002, SEC.19.*

#### **IC 32-34-5-4**

##### **"Museum" defined**

Sec. 4. As used in this chapter, "museum" means an institution located in Indiana that:

- (1) is operated by a person primarily for education, scientific, historic preservation, or aesthetic purposes; and
- (2) owns, borrows, cares for, exhibits, studies, archives, or catalogs property.

*As added by P.L.2-2002, SEC.19.*

#### **IC 32-34-5-5**

##### **"Permanent loan" defined**

Sec. 5. As used in this chapter, "permanent loan" means a loan of property to a museum for an indefinite period.

*As added by P.L.2-2002, SEC.19.*

#### **IC 32-34-5-6**

##### **"Person" defined**

Sec. 6. As used in this chapter, "person" means an individual, a nonprofit corporation, a trustee or legal representative, the state, a political subdivision (as defined in IC 36-1-2-13), an agency of the state or a political subdivision, or a group of those persons acting in concert.

*As added by P.L.2-2002, SEC.19.*

#### **IC 32-34-5-7**

**"Property" defined**

Sec. 7. As used in this chapter, "property" means a tangible object under a museum's care that has intrinsic historic, artistic, scientific, or cultural value.

*As added by P.L.2-2002, SEC.19.*

**IC 32-34-5-8****"Undocumented property" defined**

Sec. 8. As used in this chapter, "undocumented property" means property in the possession of a museum for which the museum cannot determine the owner by reference to the museum's records.

*As added by P.L.2-2002, SEC.19.*

**IC 32-34-5-9****Mailing notice**

Sec. 9. A notice given by a museum under this chapter must be mailed to the lender's last known address by certified mail. Proper notice is given if the museum receives proof of receipt of the notice not more than thirty (30) days after the notice was mailed.

*As added by P.L.2-2002, SEC.19.*

**IC 32-34-5-10****Notice by publication**

Sec. 10. (a) A museum may give notice by publication under this chapter if the museum does not:

- (1) know the identity of the lender;
- (2) have an address last known for the lender; or
- (3) receive proof of receipt of the notice by the person to whom the notice was sent within thirty (30) days after the notice was mailed.

(b) Notice by publication under subsection (a) must be given at least once a week for two (2) consecutive weeks in a newspaper of general circulation in:

- (1) the county in which the museum is located; and
- (2) the county of the lender's last known address, if the identity of the lender is known.

*As added by P.L.2-2002, SEC.19.*

**IC 32-34-5-11****Notice; contents**

Sec. 11. In addition to any other information that may be required or seem appropriate, a notice given by a museum under this chapter must contain the following:

- (1) The name of the lender, if known.
- (2) The last known address of the lender.
- (3) A brief description of the property on loan.
- (4) The date of the loan, if known.
- (5) The name of the museum.
- (6) The name, address, and telephone number of the person or office to be contacted regarding the property.

*As added by P.L.2-2002, SEC.19.*

### **IC 32-34-5-12**

#### **Acquiring title for property on permanent loan or loaned for specified time; notice**

Sec. 12. A museum may acquire title in the following manner to property that is on permanent loan to the museum or that was loaned for a specified term that has expired:

(1) The museum must give notice that the museum is terminating the loan of the property.

(2) The notice that the loan of the property is terminated must include a statement containing substantially the following information:

"The records at (name of museum) indicate that you have property on loan to it. The museum hereby terminates the loan. If you desire to claim the property, you must contact the museum, establish your ownership of the property, and make arrangements to collect the property. If you do not contact the museum, you will be considered to have donated the property to the museum."

(3) If the lender does not respond to the notice of termination within one (1) year after receipt of the notice by filing a notice of intent to preserve an interest in the property on loan, clear and unrestricted title is transferred to the museum three hundred sixty-five (365) days after the notice was received.

*As added by P.L.2-2002, SEC.19.*

### **IC 32-34-5-13**

#### **Acquiring title for undocumented property; notice**

Sec. 13. A museum may acquire title to undocumented property held by the museum for at least seven (7) years as follows:

(1) The museum must give notice that the museum is asserting title to the undocumented property.

(2) The notice that the museum is asserting title to the property must include a statement containing substantially the following information:

"The records of (name of museum) fail to indicate the owner of record of certain property in its possession. The museum hereby asserts title to the following property: (general description of property). If you claim ownership or other legal interest in this property, you must contact the museum, establish ownership of the property, and make arrangements to collect the property. If you fail to do so within three (3) years, you will be considered to have waived any claim you may have had to the property."

(3) If a lender does not respond to the notice within three (3) years by giving a written notice of intent to retain an interest in the property on loan, the museum's title to the property becomes absolute.

*As added by P.L.2-2002, SEC.19.*

**IC 32-34-5-14****Conservation measures; application without lender's permission or formal notice**

Sec. 14. Unless there is a written loan agreement to the contrary, a museum may apply conservation measures to property on loan to the museum without the lender's permission or formal notice:

(1) if:

(A) action is required to protect the property on loan or other property in the custody of the museum; or

(B) the property on loan is a hazard to the health and safety of the public or the museum staff; and

(2) if:

(A) the museum is unable to reach the lender at the lender's last known address within three (3) days before the time the museum determines action is necessary; or

(B) the lender does not respond or will not agree to the protective measures the museum recommends and does not terminate the loan and retrieve the property within three (3) days.

*As added by P.L.2-2002, SEC.19.*

**IC 32-34-5-15****Conservation measures; liens; liability of museum**

Sec. 15. If a museum applies conservation measures to property under section 14 of this chapter or with the agreement of the lender, unless the agreement provides otherwise, the museum:

(1) acquires a lien on the property in the amount of the costs incurred by the museum; and

(2) is not liable for injury to or loss of the property if the museum:

(A) 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 that the property on loan was a hazard to the health and safety of the public or the museum staff; and

(B) exercised reasonable care in the choice and application of conservation measures.

*As added by P.L.2-2002, SEC.19.*

**IC 32-34-5-16****Presumption of gift to museum**

Sec. 16. 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 or individual within ninety (90) days after its discovery.

*As added by P.L.2-2002, SEC.19.*