

1993 Assembly Bill 95

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1993 WISCONSIN ACT 18

AN ACT *to renumber* ch. 171; *to amend* 171.03; and *to create* subch. I (title) of ch. 171 and subch. II of ch. 171 of the statutes, **relating to:** property in the possession of a museum or archives.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. Chapter 171 of the statutes is renumbered subchapter I of chapter 171.

SECTION 2. Subchapter I (title) [precedes 171.01] of chapter 171 of the statutes is created to read:

CHAPTER 171
SUBCHAPTER I
PROPERTY IN POSSESSION
OF A CONSIGNEE OR BAILEE

SECTION 3. 171.03 of the statutes is amended to read:

171.03 Officers' fees. The fees allowed under this ~~chapter~~ subchapter to any sheriff or constable are the same fees allowed by law to a sheriff for sales upon execution.

SECTION 4. Subchapter II of chapter 171 of the statutes is created to read:

CHAPTER 171
SUBCHAPTER II
PROPERTY IN POSSESSION OF A MUSEUM
OR ARCHIVES

171.30 Definitions. In this subchapter:

(1) "Archives" 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" does not include a public library.

(2) "Loan" means the placement of property with a museum or archives that is not accompanied by a transfer of title of the property to the museum or archives 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 or between museums and archives unless the transferring institution specifically provides in writing that the transfer is a loan under this subchapter.

(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) "Nonprofit organization" has the meaning given in s. 108.02 (19).

(5) "Property" means personal property.

(6) "Public agency" has the meaning given in s. 146.50 (1) (n).

171.31 Loans of property to a museum or archives. (1) Each museum or archives shall keep accurate records of all property on loan to the museum or archives, 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, the museum or archives shall give the owner of the property a copy of this subchapter. If a museum or archives is notified of a change in the ownership of any property loaned to a museum or archives, the museum or archives shall inform the new owner of the provisions of the loan agreement and shall send the new owner a copy of this subchapter. Not less than 90 days before a museum or archives changes its address or dissolves, the museum or archives shall notify all owners of

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that change of address or dissolution. If a museum or archives becomes the owner of property under s. 171.32 or 171.33, the museum or archives shall maintain any records that the museum or archives has regarding the property for not less than 2 years after the date on which the museum or archives becomes the owner of the property.

(2) The owner of property loaned to a museum or archives shall provide the museum or archives with written notice of any change of the owner's address, of his or her 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.

171.32 Acquiring title to abandoned property. (1) Property loaned to a museum or archives whose loan has an expiration date is abandoned when there has not been written contact between the owner and the museum or archives for at least 7 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 for at least 7 years after the museum or archives took possession of the property.

(2) If a museum or archives wishes to acquire title to abandoned property, the museum or archives shall, not less than 60 days after property is abandoned under sub. (1), send a notice by certified mail with return receipt requested to the owner'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 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 within 60 days after receipt of the notice.
- (d) A statement that the museum or archives 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 within 60 days after receipt of the notice.

(e) The notice 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) will be con-

sidered abandoned by you and will become the property of (name of museum or archives) if you fail to submit to the museum or archives 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) 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.

....
(name of person to contact at museum or archives and address of museum or archives)

(3) If the notice sent by the museum or archives under sub. (2) is returned to the museum or archives undelivered, the museum or archives shall give notice of the abandoned property by publication of a class 2 notice under ch. 985 containing the following:

- (a) The name and last-known address of the present owner.
- (b) A description of the property.
- (c) A statement that the property is abandoned and that the museum or archives will become the owner of the property if no person can prove his or her ownership of the property.
- (d) A statement that a person claiming ownership of the property shall notify the museum or archives in writing of that claim within 60 days after publication of the last legal notice.
- (e) The name and mailing address of the person who may be contacted at the museum or archives if a person wants to submit a written claim to the property.

(4) (a) If the museum or archives receives a timely written claim for the property from the owner or his or her agent in response to the notice sent under sub. (2) or (3), the museum or archives shall return the property to the owner or dispose of the property as the owner requests. The owner shall advise the museum or archives 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 have made other arrangements.

(b) If the museum or archives receives a timely written claim for the property from a person other than the person who loaned the property to the museum or archives in response to the notice sent under sub. (2) or (3), the museum or archives 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 may delay its determination of ownership until the competing claims are resolved by agreement or legal action. If the museum or

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archives determines that the claim is valid, or if the competing claims are resolved by agreement or judicial action, the museum or archives 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.

(c) If the museum or archives does not receive a timely written claim to the property or if the museum or archives determines that no valid timely claim to the property was submitted, the museum or archives becomes the owner of the property. The museum or archives 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 determines that no valid timely written claim was submitted. The museum or archives owns the property free from all claims.

171.33 Acquiring title to undocumented property.

Property in the possession of a museum or archives which the museum or archives has reason to believe is on loan and for which the museum or archives does not know the owner or have any reasonable means of determining the owner becomes the property of the museum or archives if no person has claimed the property within 7 years after the museum or archives took possession of the property. The museum or archives becomes the owner of the property on the day after the 7-year period ends, free from all claims.

SECTION 5. Initial applicability. (1) The treatment of sections 171.30, 171.32 and 171.33 of the statutes first applies to property in the possession of a museum or archives on the effective date of this subsection.

(2) The treatment of section 171.31 of the statutes first applies to property loaned to a museum or archives on the effective date of this subsection.