

# MAINE STATE LEGISLATURE

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# 125th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2011

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Legislative Document

No. 1038

H.P. 772

House of Representatives, March 10, 2011

### An Act Regarding Property Deposited with Museums and Historical Societies

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Reference to the Committee on Education and Cultural Affairs suggested and ordered printed.

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST  
Clerk

Presented by Representative RICHARDSON of Carmel.  
Cosponsored by Representatives: HARMON of Palermo, JOHNSON of Greenville,  
MITCHELL of the Penobscot Nation, PILON of Saco.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 27 MRSA §601**, as amended by PL 2003, c. 20, Pt. T, §16, is further  
3 amended to read:

4 **§601. Property deposited with museums**

5 **1. Property to be considered abandoned; definition.** Any ~~property~~ tangible  
6 collection material held by a museum ~~or historical society~~ within the State that is held for  
7 ~~25~~ 3 years or more without a written loan agreement, or after expiration of a written loan  
8 agreement, and to which ~~no~~ a person has not made claim is ~~deemed~~ considered to be  
9 abandoned and, notwithstanding Title 33, chapter 41, becomes the property of the  
10 museum ~~or society~~, provided that as long as the value of the material is less than \$50 or  
11 the museum or society has complied with subsection 2.

12 As used in this section, "museum" includes, but is not limited to, historical societies,  
13 historic sites, landmarks, parks, archives, monuments, botanical gardens, arboretums,  
14 zoos, nature centers, planetariums, aquariums, libraries, technology centers and art,  
15 history, science and natural history museums.

16 **2. Notice.** ~~The~~ With respect to property under subsection 1 with a value of \$50 or  
17 greater, for the property to become the property of the museum, the museum or society  
18 shall first exercise due diligence in attempting to notify the owner via certified mail,  
19 return receipt requested, to the owner's last known address and via electronic  
20 communication if appropriate. If an address is unavailable or these attempts fail, the  
21 museum shall cause to be published in at least one newspaper of general circulation in the  
22 county in which the museum ~~or society~~ is located at least once a week for 2 consecutive  
23 weeks a notice and listing of the property. The notice must contain:

24 A. The name and last known address, if any, of the last known owner of the  
25 property;

26 B. A description of the property; ~~and~~

27 C. A statement that if proof of claim is not presented by the current owner to the  
28 museum ~~or society~~ and if the owner's right to receive the property is not established  
29 to the museum's ~~or society's~~ satisfaction within 65 days from the date of the 2nd  
30 published notice, the property ~~will be deemed~~ is considered abandoned and ~~become~~  
31 becomes the property of the museum ~~or society~~;

32 D. The date of the loan of the property, if known, or the approximate date the  
33 property came into the custody of the museum;

34 E. The name of the museum; and

35 F. The name, address and contact information of the appropriate museum official or  
36 office to be contacted regarding the property.

37 **3. Title to property.** If property is abandoned under subsection 1, including  
38 property with respect to which notice under subsection 2 is required if no claim has been  
39 made to the property within 65 days from the date of the 2nd published notice, title to the

1 property ~~shall vest~~ vests in the museum ~~or society~~, free from all claims of the owner and  
2 of all persons claiming through or under ~~him~~ the owner.

3 **4. Emergency conservation measures.** Unless a written loan agreement provides  
4 otherwise, a museum may apply conservation measures to, or dispose of, undocumented  
5 property or property on loan to the museum without the owner's permission if:

6 A. Immediate action is required to protect the undocumented property or property on  
7 loan; or

8 B. The undocumented property or the property on loan has become a hazard to the  
9 health or safety of the public or to the museum's staff and at least one of the following  
10 applies:

11 (1) The property poses an immediate risk of harm to the museum's staff or  
12 collection or to the general public, in which case the museum may dispose of the  
13 property without delay and shall notify the owner of the action taken within 30  
14 days;

15 (2) The museum is unable to reach the owner through available means of  
16 communication and action with respect to the property is necessary within 30  
17 days; and

18 (3) The museum contacts the owner and the owner does not agree to the  
19 protective measures the museum recommends and does not, or is unable to,  
20 terminate the loan and collect the property within the time the museum  
21 determines the action is necessary.

22 **5. Protection for reasonable actions.** Unless a written loan agreement provides  
23 otherwise, a museum that applies conservation measures to or disposes of loaned property  
24 in accordance with subsection 4:

25 A. Shall acquire and may enforce a lien on the loaned property in the amount of the  
26 costs incurred by the museum;

27 B. Is not liable to the owner for damage to, or loss of, the loaned property as long as  
28 the museum had a reasonable belief at the time the action was taken that the action  
29 was necessary; and

30 C. Is not liable to the owner for damage to, or loss of, the loaned property due to  
31 conservation measures applied, as long as the museum exercised reasonable care in  
32 choosing and applying the conservation measures.

### 33 SUMMARY

34 This bill reduces storage and insurance costs for museums and historical societies by  
35 reducing by 22 years the period that abandoned property must be held before title may be  
36 taken. The bill adopts the American Association of Museums definition of "museum,"  
37 clarifies the rights of those lending tangible collection materials to museums and protects  
38 museums exercising due diligence in emergency situations.