

SENATE BILL NO. 109

INTRODUCED BY FULLER, ERNST, SPAETH, J. BROWN, TVEIT

BY REQUEST OF THE MONTANA HISTORICAL SOCIETY

IN THE SENATE

January 15, 1985	Introduced and referred to Committee on Education and Cultural Resources.
February 14, 1985	Committee recommend bill do pass as amended. Report adopted.
February 15, 1985	Bill printed and placed on members' desks.
February 16, 1985	Second reading, do pass.
February 18, 1985	Considered correctly engrossed.
February 19, 1985	Third reading, passed. Ayes, 45; Noes, 0.
	Transmitted to House.

IN THE HOUSE

February 27, 1985	Introduced and referred to Committee on Education and Cultural Resources.
March 9, 1985	Committee recommend bill be concurred in as amended. Report adopted.
March 12, 1985	Motion pass consideration.
March 13, 1985	Second reading, pass consideration.

March 14, 1985 Second reading, concurred in
as amended.

March 16, 1985 Third reading, concurred in.
Returned to Senate with
amendments.

IN THE SENATE

March 16, 1985 Received from House.

March 21, 1985 Second reading, amendments not
concurred in. Ayes, 47;
Noes, 0.

March 25, 1985 On motion, Conference
Committee requested and
appointed.

April 16, 1985 Conference Committee reported.
Conference Committee report
adopted by House.

April 17, 1985 Second reading, Conference
Committee report adopted.

April 18, 1985 Third reading, Conference
Committee report adopted.
Sent to enrolling.
Reported correctly enrolled.

1 *Senate* BILL NO. *109*
 2 INTRODUCED BY *Fuller, Ernest*
 3 *J. Brown* BY REQUEST OF THE MONTANA HISTORICAL SOCIETY *Treat*

4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING LENDERS TO
 6 NOTIFY MUSEUMS OF CHANGES OF ADDRESS AND TRANSFERS OF
 7 OWNERSHIP OF LOANED PROPERTY; ESTABLISHING A PROCEDURE FOR
 8 LENDERS TO PRESERVE THEIR INTERESTS IN PROPERTY LOANED TO A
 9 MUSEUM; AND VESTING TITLE TO UNCLAIMED PROPERTY IN THE
 10 MUSEUM THAT HOLDS IT."

11
 12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 Section 1. Short title. This part may be cited as the
 14 "Museum Loan Act".

15 Section 2. Purpose. The people of Montana have an
 16 interest in preserving and protecting objects of scientific,
 17 historic, artistic, or cultural value and making them
 18 accessible to the public. The purpose of this part is to
 19 serve this interest by establishing a uniform procedure for
 20 lenders to preserve their interests in property loaned to
 21 museums; to require lenders to notify museums of changes of
 22 address and transfers of ownership of loaned property; and
 23 to vest title to unclaimed property in the museum that holds
 24 it.

25 Section 3. Definitions. As used in this part, the

1 following definitions apply:

2 (1) "Loan" means a deposit of property not accompanied
 3 by a transfer of title to the property.

4 (2) "Museum" means an institution located in Montana
 5 and operated by a nonprofit corporation or a public agency
 6 primarily for educational, scientific, or aesthetic
 7 purposes, and that owns, borrows, or cares for and exhibits,
 8 studies, or catalogs property.

9 (3) "Property" includes any tangible object, animate
 10 or inanimate, that has intrinsic historic, artistic,
 11 scientific, or cultural value.

12 Section 4. Loans for an indefinite term. (1) If a
 13 museum accepts a loan of property for an indefinite term or
 14 for a term longer than 7 years, the museum must inform the
 15 lender in writing at the time of the loan of the provisions
 16 of this part.

17 (2) For the purposes of this part, a loan for a
 18 specified term becomes a loan for an indefinite term if the
 19 property remains in the custody of the museum after the
 20 specified term expires.

21 Section 5. Manner of giving notice to lender. When the
 22 provisions of this part require a museum to give notice to a
 23 lender, the museum is considered to have given notice if the
 24 museum mails the notice to the lender at the lender's
 25 address and proof of receipt is received by the museum



1 within 30 days from the date the notice was mailed. If the
 2 museum does not have a current address for the lender or if
 3 proof of receipt is not received by the museum, notice is
 4 considered given if the museum publishes it at least once a
 5 week for 3 consecutive weeks in a newspaper of general
 6 circulation in both the county in which the museum is
 7 located and the county of the lender's most recent address
 8 as shown on the museum's records.

9 Section 6. Notice of intent to preserve interest.

10 (1) The owner of property on loan to a museum may file with
 11 the museum a notice of intent to preserve an interest in the
 12 property. This notice must be in writing, must contain a
 13 description of the property adequate to enable the museum to
 14 identify the property, and must be accompanied by
 15 documentation sufficient to establish the claimant as owner
 16 of the property.

17 (2) The filing of a notice of intent to preserve an
 18 interest in property on loan to a museum does not validate
 19 or make enforceable any claim that would be extinguished
 20 under the terms of a written loan agreement or that would
 21 otherwise be invalid or unenforceable.

22 (3) (a) Unless the loaned property is returned to the
 23 claimant, the museum shall retain for not less than 25 years
 24 the original or an accurate copy of any notice filed by a
 25 claimant under this section.

1 (b) The museum need not retain a notice that does not
 2 meet the requirements set forth in subsection (1). If the
 3 museum does not intend to retain a notice, the museum shall
 4 promptly notify the claimant at the address given on the
 5 notice that it believes the notice is not effective to
 6 preserve an interest and stating the reasons for this
 7 belief.

8 (c) The fact that the museum retains a notice may not
 9 be construed to mean that the notice is sufficient or
 10 accurate or that it is effective to preserve an interest in
 11 property on loan to the museum.

12 (4) A notice of intent to preserve an interest in
 13 property on loan to a museum satisfies the requirements of
 14 subsection (1) if it is in substantially the following form
 15 and contains the information and attachments described:

16 NOTICE TO PRESERVE AN INTEREST IN PROPERTY
 17 ON LOAN TO A MUSEUM
 18 Name of Museum _____ Date _____
 19 Claimant's Name _____
 20 Address _____
 21 (street address; city; state; zip code)
 22 Telephone _____
 23 Date Property Loaned _____
 24 Description of Property _____
 25 _____

1 _____

2 Documentation of ownership -- check the appropriate box:

3 Legible copy of original loan receipt attached

4 Other documentation attached

5 If you are not the original lender, describe the origin
6 of your interest in the property and attach a copy of any
7 document that creates your interest:

8 _____
9 _____
10 _____

11 I understand that I must promptly notify the museum in
12 writing of any change of address or change in ownership of
13 the loaned property.

14 I declare under penalty of false swearing that to the
15 best of my knowledge the information contained in this
16 notice is true.

17 SIGNED _____

18 (claimant)

19 OR I declare under penalty of false swearing that I am
20 authorized to act on behalf of the claimant and am informed
21 and believe that the information contained in this notice is
22 true.

23 SIGNED _____

24 (claimant's representative)

25 Section 7. Notice of change of address or transfer of

1 ownership. The owner of property on loan to a museum shall
2 notify the museum promptly in writing of any change of
3 address or change in ownership of the property. Failure to
4 notify the museum of these changes may result in the owner's
5 loss of rights in the property.

6 Section 8. Conservation or disposal of loaned
7 property. (1) Unless there is a written loan agreement to
8 the contrary, a museum may apply conservation measures to or
9 dispose of property on loan to the museum without the
10 lender's permission if immediate action is required to
11 protect the property on loan or other property in the
12 custody of the museum or if the property on loan has become
13 a hazard to the health and safety of the public or the
14 museum staff and:

15 (a) the museum is unable to reach the lender at the
16 lender's last address of record; or

17 (b) the lender will not agree to the protective
18 measures the museum recommends, yet is unwilling or unable
19 to terminate the loan and retrieve the property.

20 (2) If a museum applies conservation measures to or
21 disposes of property under the provisions of this section,
22 the museum:

23 (a) has a lien on the property and on the proceeds of
24 any disposition thereof for the costs incurred by the
25 museum; and

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

3 (i) had a reasonable belief at the time the action was
4 taken that the action was necessary to protect the property
5 on loan or other property in the custody of the museum or
6 that the property on loan was a hazard to the health and
7 safety of the public or the museum staff; and

8 (ii) exercised reasonable care in the choice and
9 application of conservation measures.

10 Section 9. Notice of injury or loss. (1) A museum
11 shall give a lender prompt notice of any known injury to or
12 loss of property on loan.

13 (2) A notice of injury or loss must contain the
14 lender's name, the lender's most recent address as shown on
15 the museum's records, the date of the loan, and the name,
16 address, and telephone number of the appropriate office or
17 official to be contacted at the museum for information
18 regarding the loan.

19 (3) If the museum is unable to give the lender the
20 notice required by this section by mail, the museum shall
21 publish the notice as provided in [section 5] and in
22 addition shall include a statement containing substantially
23 the following information:

24 The records of _____
25 (name of museum)

1 indicate that you have property on loan to it. Your failure
2 to notify it in writing of a change of address or ownership
3 may result in the loss of rights in the loaned property.
4 See [section 7], MCA.

5 Section 10. Notice of intent to terminate loan. A
6 museum may give the lender notice of its intent to terminate
7 a loan made for an indefinite term or for a term longer than
8 7 years. A notice of intent to terminate a loan must include
9 the lender's name, the lender's most recent address as shown
10 on the museum's records, the date of the loan, and the name,
11 address, and telephone number of the appropriate office or
12 official to be contacted at the museum for information
13 regarding the loan. In addition, it must include a
14 statement containing substantially the following
15 information:

16 The records of _____
17 (name of museum)

18 indicate that you have property on loan to it. The
19 institution wishes to terminate the loan. You must contact
20 the institution, establish your ownership of the property,
21 and make arrangements to collect the property. If you fail
22 to do so promptly, you will be considered to have donated
23 the property to the institution. See [section 4], MCA.

24 Section 11. Limitation on action against the museum.
25 (1) No action may be brought against a museum for damages

1 because of injury to or loss of property loaned to the
 2 museum more than 3 years from the date the museum gives the
 3 lender notice of the injury or loss or 10 years from the
 4 date of the injury or loss, whichever occurs earlier.

5 (2) No action may be brought against a museum to
 6 recover property on loan if more than 3 years have passed
 7 from the date the museum gave the lender notice of its
 8 intent to terminate the loan as provided in [section 10].

9 (3) No action may be brought against a museum to
 10 recover property on loan if more than 25 years have passed
 11 from the date of the last written contact between the lender
 12 and the museum, as evidenced in the museum's records.

13 (4) A lender is considered to have donated loaned
 14 property to the museum if the lender fails to file an action
 15 to recover the property on loan to the museum within the
 16 periods specified in subsections (1) through (3).

17 (5) A person who purchases property from a museum
 18 acquires good title to the property if the museum represents
 19 that it has acquired title to the property pursuant to
 20 subsection (4).

21 (6) Notwithstanding subsections (3) and (4), a lender
 22 who was not given notice that the museum intended to
 23 terminate a loan and who proves that the museum received a
 24 notice of intent to preserve an interest in loaned property
 25 within the 25 years immediately preceding the filing of an

1 action to recover the property may recover the property or,
 2 if the property has been disposed of, the reasonable value
 3 of the property at the time it was disposed of plus interest
 4 at 5% a year.

5 Section 12. Uniform Unclaimed Property Act superseded.
 6 The provisions of [this part] supersede the provisions of
 7 Title 70, chapter 9, parts 1 through 3, except that at its
 8 option a museum may report property that has been on loan
 9 unclaimed by its owner for more than 7 years to the
 10 department of revenue for disposition as provided in Title
 11 70, chapter 9, part 3.

12 Section 13. Codification instruction. (1) Sections 1
 13 through 12 are intended to be codified as a separate part in
 14 Title 22, chapter 3.

15 (2) Section 12 is also intended to be codified as an
 16 integral part of Title 70, chapter 9, parts 1 through 3.

-End-

APPROVED BY COMM. ON EDUCATION AND CULTURAL RESOURCES

SENATE BILL NO. 109

INTRODUCED BY FULLER, ERNST, SPAETH, J. BROWN, TVEIT

BY REQUEST OF THE MONTANA HISTORICAL SOCIETY

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING LENDERS TO NOTIFY MUSEUMS OF CHANGES OF ADDRESS AND TRANSFERS OF OWNERSHIP OF LOANED PROPERTY; ESTABLISHING A PROCEDURE FOR LENDERS TO PRESERVE THEIR INTERESTS IN PROPERTY LOANED TO A MUSEUM; AND VESTING TITLE TO UNCLAIMED PROPERTY IN THE MUSEUM THAT HOLDS IT."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Short title. This part may be cited as the "Museum Loan Act".

Section 2. Purpose. The people of Montana have an interest in preserving and protecting objects of scientific, historic, artistic, or cultural value and making them accessible to the public. The purpose of this part is to serve this interest by establishing a uniform procedure for lenders to preserve their interests in property loaned to museums; to require lenders to notify museums of changes of address and transfers of ownership of loaned property; and to vest title to unclaimed property in the museum that holds it.

Section 3. Definitions. As used in this part, the

following definitions apply:

(1) "Loan" means a deposit of property not accompanied by a transfer of title to the property.

(2) "Museum" means an institution located in Montana and operated by a nonprofit corporation or a public agency primarily for educational, scientific, or aesthetic purposes, and that owns, borrows, or cares for and exhibits, studies, or catalogs property.

(3) "Property" includes any tangible object, animate or inanimate, that has intrinsic historic, artistic, scientific, or cultural value.

Section 4. Loans for an indefinite term. (1) If a museum accepts a loan of property for an indefinite term or for a term longer than 7 years, the museum must inform the lender in writing at the time of the loan of the provisions of this part.

(2) For the purposes of this part, a loan for a specified term becomes a loan for an indefinite term if the property remains in the custody of the museum after the specified term expires.

Section 5. Manner of giving notice to lender. When the provisions of this part require a museum to give notice to a lender, the museum is considered to have given notice if the museum mails the notice to the lender at the lender's address and proof of receipt is received by the museum



1 within 30 days from the date the notice was mailed. If the
 2 museum does not have a current address for the lender or if
 3 proof of receipt is not received by the museum, notice is
 4 considered given if the museum publishes it at least once a
 5 week for 3 consecutive weeks in a newspaper of general
 6 circulation in both the county in which the museum is
 7 located and the county of the lender's most recent address
 8 as shown on the museum's records.

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10 (1) The owner of property on loan to a museum may file with
 11 the museum a notice of intent to preserve an interest in the
 12 property. This notice must be in writing, must contain a
 13 description of the property adequate to enable the museum to
 14 identify the property, and must be accompanied by
 15 documentation sufficient to establish the claimant as owner
 16 of the property.

17 (2) The filing of a notice of intent to preserve an
 18 interest in property on loan to a museum does not validate
 19 or make enforceable any claim that would be extinguished
 20 under the terms of a written loan agreement or that would
 21 otherwise be invalid or unenforceable.

22 (3) (a) Unless the loaned property is returned to the
 23 claimant, the museum shall retain for not less than 25 years
 24 the original or an accurate copy of any notice filed by a
 25 claimant under this section.

1 ~~(b) The museum need not retain a notice that does not~~
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 3 ~~museum does not intend to retain a notice, the museum shall~~
 4 ~~promptly notify the claimant at the address given on the~~
 5 ~~notice that it believes the notice is not effective to~~
 6 ~~preserve an interest and stating the reasons for this~~
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8 (c)(B) The fact that the museum retains a notice may
 9 not be construed to mean that the notice is sufficient or
 10 accurate or that it is effective to preserve an interest in
 11 property on loan to the museum.

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 13 property on loan to a museum satisfies the requirements of
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 19 Claimant's Name _____
 20 Address _____
 21 (street address; city; state; zip code)
 22 Telephone _____
 23 Date Property Loaned _____
 24 Description of Property _____
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2 Documentation of ownership -- check the appropriate box:

- 3 Legible copy of original loan receipt attached
- 4 Other documentation attached

5 If you are not the original lender, describe the origin
6 of your interest in the property and attach a copy of any
7 document that creates your interest:

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11 I understand that I must promptly notify the museum in
12 writing of any change of address or change in ownership of
13 the loaned property.

14 I declare under penalty of false swearing that to the
15 best of my knowledge the information contained in this
16 notice is true.

17 SIGNED _____
18 (claimant)

19 OR I declare under penalty of false swearing that I am
20 authorized to act on behalf of the claimant and am informed
21 and believe that the information contained in this notice is
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11 protect the property on loan or other property in the
12 custody of the museum or if the property on loan has become
13 a hazard to the health and safety of the public or the
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16 lender's last address of record; or

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18 measures the museum recommends, yet is unwilling or unable
19 to terminate the loan and retrieve the property.

20 (2) If a museum applies conservation measures to or
21 disposes of property under the provisions of this section,
22 the museum:

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24 any disposition thereof for the costs incurred by the
25 museum; and

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3 (i) had a reasonable belief at the time the action was
4 taken that the action was necessary to protect the property
5 on loan or other property in the custody of the museum or
6 that the property on loan was a hazard to the health and
7 safety of the public or the museum staff; and

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17 official to be contacted at the museum for information
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20 notice required by this section by mail, the museum shall
21 publish the notice as provided in [section 5] and in
22 addition shall include a statement containing substantially
23 the following information:

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2 to notify it in writing of a change of address or ownership
3 may result in the loss of rights in the loaned property.
4 See [section 7], MCA.

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10 on the museum's records, the date of the loan, and the name,
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14 statement containing substantially the following
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21 and make arrangements to collect the property. If you fail
22 to do so promptly, you will be considered to have donated
23 the property to the institution. See [section 4], MCA.

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25 (1) No action may be brought against a museum for damages

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2 museum more than 3 years from the date the museum gives the
3 lender notice of the injury or loss or 10 years from the
4 date of the injury or loss, whichever occurs earlier.

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14 property to the museum if the lender fails to file an action
15 to recover the property on loan to the museum within the
16 periods specified in subsections (1) through (3).

17 (5) A person who purchases property from a museum
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19 that--it has acquired title to the property pursuant to
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22 who was not given notice that the museum intended to
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24 notice of intent to preserve an interest in loaned property
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1 action to recover the property may recover the property or,
2 if the property has been disposed of, the reasonable value
3 of the property at the time it was disposed of plus interest
4 at 5% 10% a year.

5 Section 12. Uniform Unclaimed Property Act superseded.
6 The provisions of [this part] supersede the provisions of
7 Title 70, chapter 9, parts 1 through 3, except that at its
8 option a museum may report property that has been on loan
9 unclaimed by its owner for more than 7 years to the
10 department of revenue for disposition as provided in Title
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12 Section 13. Codification instruction. (1) Sections 1
13 through 12 are intended to be codified as a separate part in
14 Title 22, chapter 3.

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 15 and contains the information and attachments described:

16 NOTICE TO PRESERVE AN INTEREST IN PROPERTY

17 ON LOAN TO A MUSEUM

18 Name of Museum _____ Date _____

19 Claimant's Name _____

20 Address _____

21 (street address; city; state; zip code)

22 Telephone _____

23 Date Property Loaned _____

24 Description of Property _____

25 _____

1 _____
2 Documentation of ownership -- check the appropriate box:

- 3 Legible copy of original loan receipt attached
- 4 Other documentation attached

5 If you are not the original lender, describe the origin
6 of your interest in the property and attach a copy of any
7 document that creates your interest:

8 _____
9 _____
10 _____

11 I understand that I must promptly notify the museum in
12 writing of any change of address or change in ownership of
13 the loaned property.

14 I declare under penalty of false swearing that to the
15 best of my knowledge the information contained in this
16 notice is true.

17 SIGNED _____
18 (claimant)

19 OR I declare under penalty of false swearing that I am
20 authorized to act on behalf of the claimant and am informed
21 and believe that the information contained in this notice is
22 true.

23 SIGNED _____
24 (claimant's representative)

25 Section 7. Notice of change of address or transfer of

1 ownership. The owner of property on loan to a museum shall
2 notify the museum promptly in writing of any change of
3 address or change in ownership of the property. ~~Failure to~~
4 ~~notify the museum of these changes may result in the owner's~~
5 ~~loss of rights in the property.~~

6 Section 8. Conservation or disposal of loaned
7 property. (1) Unless there is a written loan agreement to
8 the contrary, a museum may apply conservation measures to or
9 dispose of property on loan to the museum without the
10 lender's permission if immediate action is required to
11 protect the property on loan or other property in the
12 custody of the museum or if the property on loan has become
13 a hazard to the health and safety of the public or the
14 museum staff and:

15 (a) the museum is unable to reach the lender at the
16 lender's last address of record; or

17 (b) the lender will not agree to the protective
18 measures the museum recommends, yet is unwilling or unable
19 to terminate the loan and retrieve the property.

20 (2) If a museum applies conservation measures to or
21 disposes of property under the provisions of this section,
22 the museum:

23 (a) has a lien on the property and on the proceeds of
24 any disposition thereof for the costs incurred by the
25 museum; and

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

3 (i) had a reasonable belief at the time the action was
4 taken that the action was necessary to protect the property
5 on loan or other property in the custody of the museum or
6 that the property on loan was a hazard to the health and
7 safety of the public or the museum staff; and

8 (ii) exercised reasonable care in the choice and
9 application of conservation measures.

10 Section 9. Notice of injury or loss. (1) A museum
11 shall give a lender prompt notice of any known injury to or
12 loss of property on loan.

13 (2) A notice of injury or loss must contain the
14 lender's name, the lender's most recent address as shown on
15 the museum's records, the date of the loan, and the name,
16 address, and telephone number of the appropriate office or
17 official to be contacted at the museum for information
18 regarding the loan.

19 (3) If the museum is unable to give the lender the
20 notice required by this section by mail, the museum shall
21 publish the notice as provided in [section 5] and in
22 addition shall include a statement containing substantially
23 the following information:

24 The records of _____
25 (name of museum)

1 indicate that you have property on loan to it. Your failure
2 to notify it in writing of a change of address or ownership
3 may result in the loss of rights in the loaned property.
4 See [section 7], MCA.

5 Section 10. Notice of intent to terminate loan. A
6 museum may give the lender notice of its intent to terminate
7 a loan made for an indefinite term or for a term longer than
8 7 years. A notice of intent to terminate a loan must include
9 the lender's name, the lender's most recent address as shown
10 on the museum's records, the date of the loan, and the name,
11 address, and telephone number of the appropriate office or
12 official to be contacted at the museum for information
13 regarding the loan. In addition, it must include a
14 statement containing substantially the following
15 information:

16 The records of _____
17 (name of museum)

18 indicate that you have property on loan to it. The
19 institution wishes to terminate the loan. You must contact
20 the institution, establish your ownership of the property,
21 and make arrangements to collect the property. If you fail
22 to do so promptly, you will be considered to have donated
23 the property to the institution. See [section 4], MCA.

24 Section 11. Limitation on action against the museum.
25 (1) No action may be brought against a museum for damages

1 because of injury to or loss of property loaned to the
 2 museum more than 3 years from the date the museum gives the
 3 lender notice of the injury or loss or 10 years from the
 4 date of the injury or loss, whichever occurs earlier.

5 (2) No action may be brought against a museum to
 6 recover property on loan if more than 3 years have passed
 7 from the date the museum gave the lender notice of its
 8 intent to terminate the loan as provided in [section 10].

9 (3) No action may be brought against a museum to
 10 recover property on loan if more than 25 years have passed
 11 from the date of the last written contact between the lender
 12 and the museum, as evidenced in the museum's records.

13 (4) A lender is considered to have donated loaned
 14 property to the museum if the lender fails to file an action
 15 to recover the property on loan to the museum within the
 16 periods specified in subsections (1) through (3).

17 (5) A person who purchases property from a museum
 18 acquires good title to the property if the museum ~~represents~~
 19 ~~that--it~~ has acquired title to the property pursuant to
 20 subsection (4).

21 (6) Notwithstanding subsections (3) and (4), a lender
 22 who was not given notice that the museum intended to
 23 terminate a loan and who proves that the museum received a
 24 notice of intent to preserve an interest in loaned property
 25 within the 25 years immediately preceding the filing of an

1 action to recover the property may recover the property or,
 2 if the property has been disposed of, the reasonable value
 3 of the property at the time it was disposed of plus interest
 4 at ~~5%~~ 10% a year.

5 Section 12. Uniform Unclaimed Property Act superseded.
 6 The provisions of [this part] supersede the provisions of
 7 Title 70, chapter 9, parts 1 through 3, except that at its
 8 option a museum may report property that has been on loan
 9 unclaimed by its owner for more than 7 years to the
 10 department of revenue for disposition as provided in Title
 11 70, chapter 9, part 3.

12 Section 13. Codification instruction. (1) Sections 1
 13 through 12 are intended to be codified as a separate part in
 14 Title 22, chapter 3.

15 (2) Section 12 is also intended to be codified as an
 16 integral part of Title 70, chapter 9, parts 1 through 3.

-End-

HOUSE

STANDING COMMITTEE REPORT

MARCH 8

19 85

MR. SPEAKER

We, your committee on EDUCATION AND CULTURAL RESOURCES

having had under consideration SENATE Bill No. 109

THIRD reading copy (BLUE)
color

MUSEUM LOAN ACT

Respectfully report as follows: That SENATE Bill No. 109

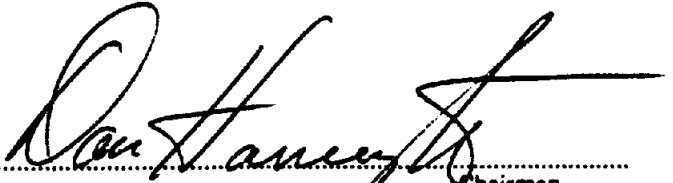
BE AMENDED AS FOLLOWS:

1. Page 3, lines 14 through 16.
Following: "property"
Strike: remainder of line 14 through "property"
on line 16

AND, AS AMENDED

BE CONCURRED IN
~~RECORD~~

BCA ^{*SL*} *3/8*


.....
REP. DAN HARRINGTON Chairman.

COMMITTEE OF THE WHOLE AMENDMENT

3130930P.CW

HOUSE

3-13-85
DATE

9:30
TIME

MR. CHAIRMAN: I MOVE TO AMEND Senate Bill No. 109

third reading copy (blue) as follows:
Color

1. Title, line 10.
Following: "IT"
Insert: "; AND PROVIDING AN APPLICABILITY DATE"
2. Page 10, following line 16.
Insert: "Section 14. Applicability. This act applies only to property loaned to a museum on or after the effective date of this act."

MF

ADOPT
REJECT

Hannah
HANNATT

1 SENATE BILL NO. 109

2 INTRODUCED BY FULLER, ERNST, SPAETH, J. BROWN, TVEIT

3 BY REQUEST OF THE MONTANA HISTORICAL SOCIETY

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING LENDERS TO
6 NOTIFY MUSEUMS OF CHANGES OF ADDRESS AND TRANSFERS OF
7 OWNERSHIP OF LOANED PROPERTY; ESTABLISHING A PROCEDURE FOR
8 LENDERS TO PRESERVE THEIR INTERESTS IN PROPERTY LOANED TO A
9 MUSEUM; AND VESTING TITLE TO UNCLAIMED PROPERTY IN THE
10 MUSEUM THAT HOLDS IT; AND PROVIDING AN APPLICABILITY DATE."

11
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:13 Section 1. Short title. This part may be cited as the
14 "Museum Loan Act".

15 Section 2. Purpose. The people of Montana have an
16 interest in preserving and protecting objects of scientific,
17 historic, artistic, or cultural value and making them
18 accessible to the public. The purpose of this part is to
19 serve this interest by establishing a uniform procedure for
20 lenders to preserve their interests in property loaned to
21 museums; to require lenders to notify museums of changes of
22 address and transfers of ownership of loaned property; and
23 to vest title to unclaimed property in the museum that holds
24 it.

25 Section 3. Definitions. As used in this part, the

1 following definitions apply:

2 (1) "Loan" means a deposit of property not accompanied
3 by a transfer of title to the property.4 (2) "Museum" means an institution located in Montana
5 and operated by a nonprofit corporation or a public agency
6 primarily for educational, scientific, or aesthetic
7 purposes, and that owns, borrows, or cares for and exhibits,
8 studies, or catalogs property.9 (3) "Property" includes any tangible object, animate
10 or inanimate, that has intrinsic historic, artistic,
11 scientific, or cultural value.12 Section 4. Loans for an indefinite term. (1) If a
13 museum accepts a loan of property for an indefinite term or
14 for a term longer than 7 years, the museum must inform the
15 lender in writing at the time of the loan of the provisions
16 of this part.17 (2) For the purposes of this part, a loan for a
18 specified term becomes a loan for an indefinite term if the
19 property remains in the custody of the museum after the
20 specified term expires.21 Section 5. Manner of giving notice to lender. When the
22 provisions of this part require a museum to give notice to a
23 lender, the museum is considered to have given notice if the
24 museum mails the notice to the lender at the lender's
25 address and proof of receipt is received by the museum

1 within 30 days from the date the notice was mailed. If the
 2 museum does not have a current address for the lender or if
 3 proof of receipt is not received by the museum, notice is
 4 considered given if the museum publishes it at least once a
 5 week for 3 consecutive weeks in a newspaper of general
 6 circulation in both the county in which the museum is
 7 located and the county of the lender's most recent address
 8 as shown on the museum's records.

9 Section 6. Notice of intent to preserve interest. (1)
 10 The owner of property on loan to a museum may file with the
 11 museum a notice of intent to preserve an interest in the
 12 property. This notice must be in writing, AND must contain
 13 a description of the property adequate to enable the museum
 14 to identify the property, ~~and must be accompanied by~~
 15 ~~documentation sufficient to establish the claimant as owner~~
 16 ~~of the property.~~

17 (2) The filing of a notice of intent to preserve an
 18 interest in property on loan to a museum does not validate
 19 or make enforceable any claim that would be extinguished
 20 under the terms of a written loan agreement or that would
 21 otherwise be invalid or unenforceable.

22 (3) (a) Unless the loaned property is returned to the
 23 claimant, the museum shall retain for not less than 25 years
 24 the original or an accurate copy of any notice filed by a
 25 claimant under this section.

1 ~~(b) The museum need not retain a notice that does not~~
 2 ~~meet the requirements set forth in subsection (1); if the~~
 3 ~~museum does not intend to retain a notice, the museum shall~~
 4 ~~promptly notify the claimant at the address given on the~~
 5 ~~notice that it believes the notice is not effective to~~
 6 ~~preserve an interest and stating the reasons for this~~
 7 ~~belief.~~

8 ~~(c) (B)~~ The fact that the museum retains a notice may
 9 not be construed to mean that the notice is sufficient or
 10 accurate or that it is effective to preserve an interest in
 11 property on loan to the museum.

12 (4) A notice of intent to preserve an interest in
 13 property on loan to a museum satisfies the requirements of
 14 subsection (1) if it is in substantially the following form
 15 and contains the information and attachments described:

16 NOTICE TO PRESERVE AN INTEREST IN PROPERTY

17 ON LOAN TO A MUSEUM

18 Name of Museum _____ Date _____
 19 Claimant's Name _____
 20 Address _____
 21 (street address; city; state; zip code)
 22 Telephone _____
 23 Date Property Loaned _____
 24 Description of Property _____
 25 _____

1 _____

2 Documentation of ownership -- check the appropriate box:

- 3 Legible copy of original loan receipt attached
- 4 Other documentation attached

5 If you are not the original lender, describe the origin
6 of your interest in the property and attach a copy of any
7 document that creates your interest:

8 _____
9 _____
10 _____

11 I understand that I must promptly notify the museum in
12 writing of any change of address or change in ownership of
13 the loaned property.

14 I declare under penalty of false swearing that to the
15 best of my knowledge the information contained in this
16 notice is true.

17 SIGNED _____
18 (claimant)

19 OR I declare under penalty of false swearing that I am
20 authorized to act on behalf of the claimant and am informed
21 and believe that the information contained in this notice is
22 true.

23 SIGNED _____
24 (claimant's representative)

25 Section 7. Notice of change of address or transfer of

1 ownership. The owner of property on loan to a museum shall
2 notify the museum promptly in writing of any change of
3 address or change in ownership of the property. ~~Failure to~~
4 ~~notify the museum of these changes may result in the owner's~~
5 ~~loss of rights in the property.~~

6 Section 8. Conservation or disposal of loaned
7 property. (1) Unless there is a written loan agreement to
8 the contrary, a museum may apply conservation measures to or
9 dispose of property on loan to the museum without the
10 lender's permission if immediate action is required to
11 protect the property on loan or other property in the
12 custody of the museum or if the property on loan has become
13 a hazard to the health and safety of the public or the
14 museum staff and:

15 (a) the museum is unable to reach the lender at the
16 lender's last address of record; or

17 (b) the lender will not agree to the protective
18 measures the museum recommends, yet is unwilling or unable
19 to terminate the loan and retrieve the property.

20 (2) If a museum applies conservation measures to or
21 disposes of property under the provisions of this section,
22 the museum:

23 (a) has a lien on the property and on the proceeds of
24 any disposition thereof for the costs incurred by the
25 museum; and

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

3 (i) had a reasonable belief at the time the action was
4 taken that the action was necessary to protect the property
5 on loan or other property in the custody of the museum or
6 that the property on loan was a hazard to the health and
7 safety of the public or the museum staff; and

8 (ii) exercised reasonable care in the choice and
9 application of conservation measures.

10 Section 9. Notice of injury or loss. (1) A museum
11 shall give a lender prompt notice of any known injury to or
12 loss of property on loan.

13 (2) A notice of injury or loss must contain the
14 lender's name, the lender's most recent address as shown on
15 the museum's records, the date of the loan, and the name,
16 address, and telephone number of the appropriate office or
17 official to be contacted at the museum for information
18 regarding the loan.

19 (3) If the museum is unable to give the lender the
20 notice required by this section by mail, the museum shall
21 publish the notice as provided in [section 5] and in
22 addition shall include a statement containing substantially
23 the following information:

24 The records of _____
25 (name of museum)

1 indicate that you have property on loan to it. Your failure
2 to notify it in writing of a change of address or ownership
3 may result in the loss of rights in the loaned property.
4 See [section 7], MCA.

5 Section 10. Notice of intent to terminate loan. A
6 museum may give the lender notice of its intent to terminate
7 a loan made for an indefinite term or for a term longer than
8 7 years. A notice of intent to terminate a loan must include
9 the lender's name, the lender's most recent address as shown
10 on the museum's records, the date of the loan, and the name,
11 address, and telephone number of the appropriate office or
12 official to be contacted at the museum for information
13 regarding the loan. In addition, it must include a
14 statement containing substantially the following
15 information:

16 The records of _____
17 (name of museum)

18 indicate that you have property on loan to it. The
19 institution wishes to terminate the loan. You must contact
20 the institution, establish your ownership of the property,
21 and make arrangements to collect the property. If you fail
22 to do so promptly, you will be considered to have donated
23 the property to the institution. See [section 4], MCA.

24 Section 11. Limitation on action against the museum.

25 (1) No action may be brought against a museum for damages

1 because of injury to or loss of property loaned to the
2 museum more than 3 years from the date the museum gives the
3 lender notice of the injury or loss or 10 years from the
4 date of the injury or loss, whichever occurs earlier.

5 (2) No action may be brought against a museum to
6 recover property on loan if more than 3 years have passed
7 from the date the museum gave the lender notice of its
8 intent to terminate the loan as provided in [section 10].

9 (3) No action may be brought against a museum to
10 recover property on loan if more than 25 years have passed
11 from the date of the last written contact between the lender
12 and the museum, as evidenced in the museum's records.

13 (4) A lender is considered to have donated loaned
14 property to the museum if the lender fails to file an action
15 to recover the property on loan to the museum within the
16 periods specified in subsections (1) through (3).

17 (5) A person who purchases property from a museum
18 acquires good title to the property if the museum **represents**
19 **that--it** has acquired title to the property pursuant to
20 subsection (4).

21 (6) Notwithstanding subsections (3) and (4), a lender
22 who was not given notice that the museum intended to
23 terminate a loan and who proves that the museum received a
24 notice of intent to preserve an interest in loaned property
25 within the 25 years immediately preceding the filing of an

1 action to recover the property may recover the property or,
2 if the property has been disposed of, the reasonable value
3 of the property at the time it was disposed of plus interest
4 at 5% ~~10%~~ a year.

5 Section 12. Uniform Unclaimed Property Act superseded.
6 The provisions of [this part] supersede the provisions of
7 Title 70, chapter 9, parts 1 through 3, except that at its
8 option a museum may report property that has been on loan
9 unclaimed by its owner for more than 7 years to the
10 department of revenue for disposition as provided in Title
11 70, chapter 9, part 3.

12 Section 13. Codification instruction. (1) Sections 1
13 through 12 are intended to be codified as a separate part in
14 Title 22, chapter 3.

15 (2) Section 12 is also intended to be codified as an
16 integral part of Title 70, chapter 9, parts 1 through 3.

17 SECTION 14. APPLICABILITY. THIS ACT APPLIES ONLY TO
18 PROPERTY LOANED TO A MUSEUM ON OR AFTER THE EFFECTIVE DATE
19 OF THIS ACT.

-End-

CONFERENCE COMMITTEE REPORT

Report No. 1

APR 15, 1985

MR. SPEAKER

We, your _____ Conference Committee on

SENATE BILL NO. 109, reference copy,

met and considered _____, on April 13, 1985, the House Amendments to

SENATE BILL NO. 109.

We recommend as follows:

That SENATE BILL NO. 109, reference copy, salmon, be amended as follows:

Page 10, line 19.

Following: "ACT"

Insert: ", or to existing loaned property with a market value of \$1000 or less at the time of disposal"

CCSB109

And that this Conference Committee report be adopted.

FOR THE SENATE

David L. Fuller
FULLER, CHM.

Joseph Mazurek
MAZUREK

B. Brown
BROWN

ADOPT REJECT

FOR THE HOUSE

H. Fritz
FRITZ, CHM.

Hannah
HANNAH

Nelson
NELSON

Ted Schye
SCHYE

SENATE BILL NO. 109

INTRODUCED BY FULLER, ERNST, SPAETH, J. BROWN, TVEIT
BY REQUEST OF THE MONTANA HISTORICAL SOCIETY

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING LENDERS TO NOTIFY MUSEUMS OF CHANGES OF ADDRESS AND TRANSFERS OF OWNERSHIP OF LOANED PROPERTY; ESTABLISHING A PROCEDURE FOR LENDERS TO PRESERVE THEIR INTERESTS IN PROPERTY LOANED TO A MUSEUM; AND VESTING TITLE TO UNCLAIMED PROPERTY IN THE MUSEUM THAT HOLDS IT; AND PROVIDING AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Short title. This part may be cited as the "Museum Loan Act".

Section 2. Purpose. The people of Montana have an interest in preserving and protecting objects of scientific, historic, artistic, or cultural value and making them accessible to the public. The purpose of this part is to serve this interest by establishing a uniform procedure for lenders to preserve their interests in property loaned to museums; to require lenders to notify museums of changes of address and transfers of ownership of loaned property; and to vest title to unclaimed property in the museum that holds it.

Section 3. Definitions. As used in this part, the

following definitions apply:

(1) "Loan" means a deposit of property not accompanied by a transfer of title to the property.

(2) "Museum" means an institution located in Montana and operated by a nonprofit corporation or a public agency primarily for educational, scientific, or aesthetic purposes, and that owns, borrows, or cares for and exhibits, studies, or catalogs property.

(3) "Property" includes any tangible object, animate or inanimate, that has intrinsic historic, artistic, scientific, or cultural value.

Section 4. Loans for an indefinite term. (1) If a museum accepts a loan of property for an indefinite term or for a term longer than 7 years, the museum must inform the lender in writing at the time of the loan of the provisions of this part.

(2) For the purposes of this part, a loan for a specified term becomes a loan for an indefinite term if the property remains in the custody of the museum after the specified term expires.

Section 5. Manner of giving notice to lender. When the provisions of this part require a museum to give notice to a lender, the museum is considered to have given notice if the museum mails the notice to the lender at the lender's address and proof of receipt is received by the museum



1 within 30 days from the date the notice was mailed. If the
 2 museum does not have a current address for the lender or if
 3 proof of receipt is not received by the museum, notice is
 4 considered given if the museum publishes it at least once a
 5 week for 3 consecutive weeks in a newspaper of general
 6 circulation in both the county in which the museum is
 7 located and the county of the lender's most recent address
 8 as shown on the museum's records.

9 Section 6. Notice of intent to preserve interest. (1)
 10 The owner of property on loan to a museum may file with the
 11 museum a notice of intent to preserve an interest in the
 12 property. This notice must be in writing, AND must contain
 13 a description of the property adequate to enable the museum
 14 to identify the property, ~~and must be accompanied by~~
 15 ~~documentation sufficient to establish the claimant as owner~~
 16 ~~of the property.~~

17 (2) The filing of a notice of intent to preserve an
 18 interest in property on loan to a museum does not validate
 19 or make enforceable any claim that would be extinguished
 20 under the terms of a written loan agreement or that would
 21 otherwise be invalid or unenforceable.

22 (3) (a) Unless the loaned property is returned to the
 23 claimant, the museum shall retain for not less than 25 years
 24 the original or an accurate copy of any notice filed by a
 25 claimant under this section.

1 ~~(b) The museum need not retain a notice that does not~~
 2 ~~meet the requirements set forth in subsection (1). If the~~
 3 ~~museum does not intend to retain a notice, the museum shall~~
 4 ~~promptly notify the claimant at the address given on the~~
 5 ~~notice that it believes the notice is not effective to~~
 6 ~~preserve an interest and stating the reasons for this~~
 7 ~~belief.~~

8 ~~(c)(B)~~ The fact that the museum retains a notice may
 9 not be construed to mean that the notice is sufficient or
 10 accurate or that it is effective to preserve an interest in
 11 property on loan to the museum.

12 (4) A notice of intent to preserve an interest in
 13 property on loan to a museum satisfies the requirements of
 14 subsection (1) if it is in substantially the following form
 15 and contains the information and attachments described:

16 NOTICE TO PRESERVE AN INTEREST IN PROPERTY

17 ON LOAN TO A MUSEUM

18 Name of Museum _____ Date _____
 19 Claimant's Name _____
 20 Address _____
 21 (street address; city; state; zip code)
 22 Telephone _____
 23 Date Property Loaned _____
 24 Description of Property _____
 25 _____

1 _____
2 Documentation of ownership -- check the appropriate box:

- 3 Legible copy of original loan receipt attached
- 4 Other documentation attached

5 If you are not the original lender, describe the origin
6 of your interest in the property and attach a copy of any
7 document that creates your interest:

8 _____
9 _____
10 _____

11 I understand that I must promptly notify the museum in
12 writing of any change of address or change in ownership of
13 the loaned property.

14 I declare under penalty of false swearing that to the
15 best of my knowledge the information contained in this
16 notice is true.

17 SIGNED _____
18 (claimant)

19 OR I declare under penalty of false swearing that I am
20 authorized to act on behalf of the claimant and am informed
21 and believe that the information contained in this notice is
22 true.

23 SIGNED _____
24 (claimant's representative)

25 Section 7. Notice of change of address or transfer of

1 ownership. The owner of property on loan to a museum shall
2 notify the museum promptly in writing of any change of
3 address or change in ownership of the property. ~~Failure to~~
4 ~~notify the museum of these changes may result in the owner's~~
5 ~~loss of rights in the property.~~

6 Section 8. Conservation or disposal of loaned
7 property. (1) Unless there is a written loan agreement to
8 the contrary, a museum may apply conservation measures to or
9 dispose of property on loan to the museum without the
10 lender's permission if immediate action is required to
11 protect the property on loan or other property in the
12 custody of the museum or if the property on loan has become
13 a hazard to the health and safety of the public or the
14 museum staff and:

15 (a) the museum is unable to reach the lender at the
16 lender's last address of record; or

17 (b) the lender will not agree to the protective
18 measures the museum recommends, yet is unwilling or unable
19 to terminate the loan and retrieve the property.

20 (2) If a museum applies conservation measures to or
21 disposes of property under the provisions of this section,
22 the museum:

23 (a) has a lien on the property and on the proceeds of
24 any disposition thereof for the costs incurred by the
25 museum; and

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

3 (i) had a reasonable belief at the time the action was
4 taken that the action was necessary to protect the property
5 on loan or other property in the custody of the museum or
6 that the property on loan was a hazard to the health and
7 safety of the public or the museum staff; and

8 (ii) exercised reasonable care in the choice and
9 application of conservation measures.

10 Section 9. Notice of injury or loss. (1) A museum
11 shall give a lender prompt notice of any known injury to or
12 loss of property on loan.

13 (2) A notice of injury or loss must contain the
14 lender's name, the lender's most recent address as shown on
15 the museum's records, the date of the loan, and the name,
16 address, and telephone number of the appropriate office or
17 official to be contacted at the museum for information
18 regarding the loan.

19 (3) If the museum is unable to give the lender the
20 notice required by this section by mail, the museum shall
21 publish the notice as provided in [section 5] and in
22 addition shall include a statement containing substantially
23 the following information:

24 The records of _____
25 (name of museum)

1 indicate that you have property on loan to it. Your failure
2 to notify it in writing of a change of address or ownership
3 may result in the loss of rights in the loaned property.
4 See [section 7], MCA.

5 Section 10. Notice of intent to terminate loan. A
6 museum may give the lender notice of its intent to terminate
7 a loan made for an indefinite term or for a term longer than
8 7 years. A notice of intent to terminate a loan must include
9 the lender's name, the lender's most recent address as shown
10 on the museum's records, the date of the loan, and the name,
11 address, and telephone number of the appropriate office or
12 official to be contacted at the museum for information
13 regarding the loan. In addition, it must include a
14 statement containing substantially the following
15 information:

16 The records of _____
17 (name of museum)

18 indicate that you have property on loan to it. The
19 institution wishes to terminate the loan. You must contact
20 the institution, establish your ownership of the property,
21 and make arrangements to collect the property. If you fail
22 to do so promptly, you will be considered to have donated
23 the property to the institution. See [section 4], MCA.

24 Section 11. Limitation on action against the museum.
25 (1) No action may be brought against a museum for damages

1 because of injury to or loss of property loaned to the
 2 museum more than 3 years from the date the museum gives the
 3 lender notice of the injury or loss or 10 years from the
 4 date of the injury or loss, whichever occurs earlier.

5 (2) No action may be brought against a museum to
 6 recover property on loan if more than 3 years have passed
 7 from the date the museum gave the lender notice of its
 8 intent to terminate the loan as provided in [section 10].

9 (3) No action may be brought against a museum to
 10 recover property on loan if more than 25 years have passed
 11 from the date of the last written contact between the lender
 12 and the museum, as evidenced in the museum's records.

13 (4) A lender is considered to have donated loaned
 14 property to the museum if the lender fails to file an action
 15 to recover the property on loan to the museum within the
 16 periods specified in subsections (1) through (3).

17 (5) A person who purchases property from a museum
 18 acquires good title to the property if the museum represents
 19 that--it has acquired title to the property pursuant to
 20 subsection (4).

21 (6) Notwithstanding subsections (3) and (4), a lender
 22 who was not given notice that the museum intended to
 23 terminate a loan and who proves that the museum received a
 24 notice of intent to preserve an interest in loaned property
 25 within the 25 years immediately preceding the filing of an

1 action to recover the property may recover the property or,
 2 if the property has been disposed of, the reasonable value
 3 of the property at the time it was disposed of plus interest
 4 at 5% 10% a year.

5 Section 12. Uniform Unclaimed Property Act superseded.
 6 The provisions of [this part] supersede the provisions of
 7 Title 70, chapter 9, parts 1 through 3, except that at its
 8 option a museum may report property that has been on loan
 9 unclaimed by its owner for more than 7 years to the
 10 department of revenue for disposition as provided in Title
 11 70, chapter 9, part 3.

12 Section 13. Codification instruction. (1) Sections 1
 13 through 12 are intended to be codified as a separate part in
 14 Title 22, chapter 3.

15 (2) Section 12 is also intended to be codified as an
 16 integral part of Title 70, chapter 9, parts 1 through 3.

17 SECTION 14. APPLICABILITY. THIS ACT APPLIES ONLY TO
 18 PROPERTY LOANED TO A MUSEUM ON OR AFTER THE EFFECTIVE DATE
 19 OF THIS ACT OR TO EXISTING LOANED PROPERTY WITH A MARKET
 20 VALUE OF \$1,000 OR LESS AT THE TIME OF DISPOSAL.

-End-