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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2013

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A N A C T

RELATING TO PROPERTY -- THE RHODE ISLAND MUSEUM PROPERTY ACT

Introduced By: Representatives Lally, Guthrie, Johnston, and Edwards

Date Introduced: February 28, 2013

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 34 of the General Laws entitled "PROPERTY" is hereby amended by
2 adding thereto the following chapter:

3 CHAPTER 44.1

4 THE RHODE ISLAND MUSEUM PROPERTY ACT

5 **34-44.1-1. Definitions.** -- As used in this chapter, the following words and terms shall
6 have the following meanings, unless the context indicates another or different meaning or intent:

7 (1) "Museum" means an organized and permanent nonprofit or public institution in
8 Rhode Island operated by, or a division of, of nonprofit corporation, trust, association,
9 educational institution or public agency, which is primarily educational, scientific, historic or
10 aesthetic in purpose, and which owns, borrows, cares for, studies, archives or exhibits property.
11 Museums may include, but not be limited to, historical societies, parks, historic sites and
12 monuments, archives and libraries;

13 (2) "Property" means any tangible object in the possession of and under a museum's care
14 that has intrinsic educational, scientific, historical, artistic, aesthetic or cultural value;

15 (3) "Loan" or "loaned" means a deposit with a museum that: (i) Title to the property is
16 not transferred to the museum, (ii) The loan agreement for such deposit does not include a
17 provision that the museum acquire title at some time after such deposit is made; or (iii) The loan
18 agreement for such deposit includes an option for the museum to acquire title at some time after
19 such deposit is made;

1 (4) "Lender" means a person (an individual, association, partnership, corporation, trust,
2 estate, or other entity) whose name appears on the records of a museum as the person legally
3 entitled to, or claiming to be legally entitled to, property held by the museum or, if such person is
4 deceased, the legal heirs of such person.

5 (5) "Undocumented property" means property under a museum's care whose ownership
6 cannot be determined by reference to the museum's records, and for which the museum does not
7 have a reasonable means of determining the owner.

8 (6) "Publication" means inclusion in the online publication of lists of abandoned property
9 established pursuant to section 33-21.1-18.

10 **34-44.1-2. Property held subject to a loan agreement.** -- (a) Any property on loan to a
11 museum that is subject to a loan agreement shall be deemed to be donated to the museum if:

12 (1) No claim of ownership is made or action filed to recover such property by the owner
13 or lender after termination or expiration of the loan; and

14 (2) The museum has given notice, in accordance with the provisions of section 34-44.1-5
15 of this chapter, and no claim of ownership is made or action to recover such property is filed on
16 or before sixty (60) days after the publication of the notice.

17 (b) A museum may terminate a loan of property for any property that was loaned to the
18 museum for an indefinite term if the property has been in the possession of the museum for at
19 least five (5) years. Any property on loan to a museum and whose loan agreement indicates that
20 such property is on permanent loan to the museum shall be considered loaned for an indefinite
21 term for purposes of this subsection. The property for any loan of property that has been
22 terminated pursuant to this subsection shall be deemed donated to the museum.

23 (c) A museum may terminate a loan of property for any property that was loaned to the
24 museum for a specified term after the expiration of such specified term, provided the museum
25 provides notice of such termination in accordance with the provisions of section 34-44.1-5 of this
26 chapter. The property for any loan of property that has been terminated pursuant to this
27 subsection shall be deemed donated to the museum.

28 (d) It shall be the responsibility of the lender of property loaned to a museum to provide
29 the museum with written notice of any change of the lender's address, of the lender's designated
30 agent, of the designated agent's address, and of the name of the new owner or lender if there is a
31 change in the ownership of the property loaned to the museum.

32 (e) A museum accepting a loan of property shall inform the lender of such property in
33 writing of the provisions of this chapter.

34 **34-44.1-3. Property held without a loan agreement.** -- (a) Any property in the

1 possession of a museum that is not subject to a loan agreement shall be deemed to be abandoned
2 if:

3 (1) The property is unclaimed and has been in the possession of the museum as
4 unclaimed property for at least five (5) years;

5 (2) The museum has given notice, in accordance with the provisions of section 34-44.1-5;
6 and

7 (3) No claim of ownership is made or action to recover such property is filed on or before
8 sixty (60) days after the publication of the notice.

9 (b) Any abandoned property in the possession of a museum shall become the property of
10 such museum.

11 **34-44.1-4. Maintenance of records.** -- On or after the effective date of this chapter, each
12 museum shall maintain a record of all property on loan to the museum which shall include, if
13 known, the name and address of the lender and the dates that the property is to be on loan to the
14 museum and a copy of the loan agreement for the property. The museum shall provide a copy of
15 the record and the loan agreement to the lender of property at the time that the lender makes the
16 loan of property to the museum. If a museum is notified of a change in ownership of any property
17 on loan to the museum, the museum shall create a new record for the property and update the
18 existing loan agreement and shall provide a written copy of the new record and the updated loan
19 agreement to the new owner of the property. A museum shall retain all written records regarding
20 property acquired under this chapter for at least ten (10) years from the date that the museum
21 acquired title to the property or until dissolution of the museum, whichever occurs first.

22 **34-44.1-5. Notice requirements.** -- (a) Prior to a museum accepting donated property
23 pursuant to section 34-44.1-2, or taking ownership of abandoned property pursuant to section 34-
24 44.1-3, the museum shall make a reasonable good faith effort to find the address of the lender and
25 provide notice that the museum may become the owner of the property. The notice shall be sent
26 by certified mail, return receipt requested, to the address of the lender on record with the
27 museum.

28 (b) If the museum does not have an address on record for the lender of the property, or
29 the museum does not receive written proof of receipt of the mailed notice within thirty (30) days
30 after the date the notice was mailed, notice shall be published for a duration of six (6) months in
31 the lists of abandoned property advertised by the general treasurer as prescribed in section 33-
32 21.1-18. The museum shall provide to the general treasurer the following information to be
33 included in the notice:

34 (1) The name and address of the museum and a brief and general description of the

1 unclaimed property, including date of the property or the approximate date the property came into
2 the custody of the museum;

3 (2) If known, the name and address of the lender on record with the museum, if any;

4 (3) A request that all persons who may have any knowledge of the whereabouts of the
5 lender provide written notice to the museum;

6 (4) The name and contact information of the person at the museum to be contacted
7 regarding the property; and

8 (5) A statement that if no claim of ownership is made or action to recover the property is
9 filed with the museum on or before sixty (60) days from the last day that the notice is included in
10 the unclaimed property publication, the property shall be deemed donated or abandoned and shall
11 become the property of the museum.

12 **34-44.1-6. Property vested in museum. --** (a) If a museum receives a timely written
13 claim of ownership for any property for which notice of donation or abandonment was made,
14 pursuant to section 34-44.1-5, from the lender on record with the museum, or the designated
15 agent of such lender, the museum shall return the property to the lender or carry out the
16 disposition of such property as the lender requests not later than sixty (60) days after receipt of
17 such written claim of ownership, provided the lender shall advise the museum in writing as to the
18 disposition of such property or how such property is to be returned to the lender. Any costs
19 incurred as a result of returning such property or the disposition of such property shall be the
20 responsibility of the lender unless the lender and the museum have mutually agreed to alternate
21 arrangements.

22 (b) If a museum receives a written claim of ownership for any property for which notice
23 of donation or abandonment was made, pursuant to section 34-44.1-5, from a person other than
24 the lender on record with the museum, the museum shall, not later than sixty (60) days after
25 receipt of such written claim of ownership, determine if such ownership claim is valid. A
26 claimant shall submit proof of ownership to the museum with such written claim of ownership. If
27 more than one person submits a written claim of ownership, the museum may delay its
28 determination of ownership until the competing claims are resolved by agreement or legal action.
29 A museum shall not be obligated to initiate legal action to resolve competing claims. If the
30 museum determines that the written claim of ownership is valid or if the competing claims are
31 resolved by agreement or judicial action, the museum shall return the property to the claimant
32 submitting the valid claim of ownership or dispose of the property as the valid claimant requests.
33 Any costs incurred as a result of returning the property or the disposition of the property shall be
34 the responsibility of the valid claimant unless the valid claimant and the museum have mutually

1 agreed to alternate arrangements.

2 (c) If no written claim of ownership is presented to the museum on or before sixty (60)
3 days after the publication of the notice, the property shall be deemed donated or abandoned and
4 title to the property shall vest in the museum.

5 (d) Any person who purchases or otherwise acquires property from a museum that
6 obtained the property by donation or abandonment pursuant to this section and sections 34-44.1-2
7 and 34-44.1-3, shall acquire good title to such property.

8 **34-44.1-7. Application of conservation measures to property on loan to a museum. --**

9 (a) Unless a written loan agreement provides otherwise, a museum may apply conservation or
10 protective measures to, or dispose of, undocumented property or property on loan to the museum
11 without the lender's or claimant's permission or formal notice if immediate action is required to
12 protect the property on loan or other property in the custody of the museum, or because the
13 property on loan has become a hazard to the health and safety of the public or to the museum's
14 staff, and if one of the following applies:

15 (1) The property poses an immediate risk of harm to the museum's staff or collection or
16 to the general public, in which case the museum may dispose of the property without delay and
17 shall notify the lender or claimant of the action taken within thirty (30) days; or

18 (2) The museum is unable to contact the lender at the address on record for the lender
19 within three (3) days before the time the museum determines action is necessary; or

20 (3) The lender does not: (i) Respond or agree to the conservation or protective measures
21 recommended by the museum; and (ii) Does not or is unable to terminate the loan and take
22 possession of such property within the time the museum determines that action is necessary.

23 (b) If a museum applies conservation or protective measures to any property on loan to
24 the museum under this section, unless the written loan agreement for the property provides
25 otherwise, the museum shall acquire a lien on the property in an amount equal to the costs
26 incurred by the museum for any conservation or protective measures taken.

27 (c) The museum shall not be liable for injury to or loss of any property that was on loan
28 to the museum and for which conservation or protective measures were taken under this section,
29 if the museum: (1) Had a reasonable belief at the time the conservation or protective measures
30 were taken that such measures were necessary to protect the property or other property in the
31 possession of the museum, or that the property was a hazard to the health and safety of the public
32 or museum staff, and (2) Exercised reasonable care in the choice and application of the
33 conservation and protective measures.

34 **34-44.1-8. Scope. -- (a) The provisions of this chapter shall:**

1 (1) Not be construed to abrogate the rights and obligations of a lender, claimant or
2 museum identified in a written loan agreement, unless the requirements of section 34-44.1-2 have
3 been fulfilled;

4 (2) Not preclude a museum from availing itself of any other means of establishing or
5 perfecting title to property in the possession of the museum.

6 (b) This chapter applies to all property held by or in the custody of a museum on or after
7 the effective date of the chapter.

8 SECTION 2. Section 33-21.1-18 of the General Law in Chapter 31-21.1 entitled
9 "Unclaimed Intangible and Tangible Property" is hereby amended to read as follows:

10 **33-21.1-18. Notice and publication of lists of abandoned property.** -- (a) The
11 administrator shall place an advertisement, twice a year, one not later than March 1 and one not
12 later than October 15, at least once a week for two (2) consecutive weeks in a newspaper or
13 combination of newspapers of general circulation that reach each county in the state. The
14 advertisement shall: (1) Not exceed one quarter (1/4) of a newspaper page; and (2) List a phone
15 number citizens can call to request a written copy of the unclaimed property publication; and (3)
16 List a website that provides the information contained in the unclaimed property publication. The
17 unclaimed property publication shall consist of two (2) parts.

18 (b) Part one of The the unclaimed property publication must be entitled "Names of
19 Persons Appearing to be Owners of Abandoned Property" and contain:

20 (1) The names in alphabetical order and last known address, if any, of persons listed in
21 the report and entitled to notice within the state;

22 (2) A statement that information concerning the property and the name and last known
23 address of the holder may be obtained by any person possessing an interest in the property by
24 addressing an inquiry to the administrator; and

25 (3) A statement that if proof of claim is not presented by the owner to the holder and
26 the owner's right to receive the property is not established to the holder's satisfaction the property
27 will be placed in the custody of the administrator and all further claims must thereafter be
28 directed to the administrator.

29 (4) This section is not applicable to sums payable on travelers checks, money orders,
30 and other written instruments presumed abandoned under section 33-21.1-4 or museum property
31 subject to chapter 34-44.1.

32 (c)(1) Part two (2) of the unclaimed property publication must be entitled "Names of
33 Persons Appearing to be Owners of Abandoned Museum Property" and contain the following
34 information that a museum, as defined in chapter 34-44.1, has provided to the administrator:

1 (i) The name and address of the museum and brief and general description of the
2 unclaimed property, including the approximate date the property came into the custody of the
3 museum;

4 (ii) If known, the name and address of the lender on record with the museum;

5 (iii) A request that all persons who may have any knowledge of the whereabouts of the
6 lender provide written notice to the museum;

7 (iv) The name, and contact information of the person at the museum to be contacted
8 regarding the property; and

9 (v) Language providing that if a written assertion of title is not presented by the lender to
10 the museum within sixty (60) days from the last day that the notice is included in the unclaimed
11 property publication, the property shall be considered abandoned and donated and shall become
12 the property of the museum.

13 (2) After notice has been posted in part two (2) of the unclaimed property publication for
14 six (6) months, the administrator shall provide in writing to each museum confirmation of the
15 dates that the properties were included in the unclaimed property publication.

16 (3) The administrator shall have the authority to establish procedures to implement the
17 provisions of this subsection (c); provided however, that at no time shall any property be placed
18 in the custody of the administrator and provided further that the administrator shall have no
19 authority to determine any claim of ownership. All claims shall be directed to the museum that
20 has custody of the property and any claim of ownership shall be determined in accordance with
21 the provisions of chapter 34-44.1. The administrator, and the administrator's employees and
22 agents, shall not be liable for any actions taken in carrying out the requirements of this subsection
23 (c).

24 ~~(d)~~ (d) The administrator is not required to publish in the unclaimed property publication
25 any items of less than fifty dollars (\$50.00) unless the administrator considers their publication to
26 be in the public interest or a museum's requests that an item be published in the unclaimed
27 property publication.

28 ~~(d) This section is not applicable to sums payable on travelers checks, money orders, and~~
29 ~~other written instruments presumed abandoned under § 33-21.1-4.~~

30 SECTION 3. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO PROPERTY -- THE RHODE ISLAND MUSEUM PROPERTY ACT

- 1 This act would create a procedure for museums to resolve ownership of unclaimed
- 2 property on loan to a museum, and undocumented property in the possession of a museum.
- 3 This act would take effect upon passage.

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