

Article 5.

Museum and Archives Repository Property.

**§ 121-50. Legislative findings and declaration.**

The General Assembly finds and declares that the growth and maintenance of collections in museums and archives repositories, both public and private, is a matter of general public interest to the citizens of North Carolina. Museums and archives repositories of all kinds depend upon loans of various articles of property to promote and encourage the teaching of North Carolina and local history and to preserve and care for historical manuscripts, materials, and artifacts. The uncertainty regarding title to and responsibility for loaned property is a hindrance to museums and archives repositories in their efforts to maintain, repair, and dispose of property in their possession. The purpose of this Article is to terminate stale claims and to fairly and reasonably allocate responsibilities for the determination of title and financial responsibilities in certain cases. (2015-218, s. 2.)

**§ 121-51. Definitions.**

The following definitions apply in this Article:

- (1) Address. – A description of the location of the lender as shown on a museum or archives repository's records that is sufficient for delivery by mail.
- (2) Archives repository. – An archives repository shall have the same meaning as the term "North Carolina State Archives" as defined in G.S. 121-2(7).
- (3) Loan. – The placement of property with a museum or archives repository that is not accompanied by a transfer of title of the property to the museum or archives repository and for which there is some record that the owner intended to retain title to the property. The term "loan" does not include transfers between museums, between archives repositories, or between museums and archives repositories unless the transferring institution specifically provides in writing that the transfer is a loan under this Article.
- (4) Museum. – A museum shall include any museum or historic site administered by the Department of Natural and Cultural Resources, including the term "North Carolina Museum of History" as defined in G.S. 121-2(6).
- (5) Property. – A tangible object under the care of a museum or archives repository that has intrinsic historic, artistic, scientific, educational, or cultural value.
- (6) Valid claim. – A written notice of intent to preserve an interest in property on loan to a museum or archives repository, including all of the following:
  - a. A description of the property adequate to enable the museum or archives repository to identify the property.
  - b. Documentation sufficient to establish the claimant as owner of the property.
  - c. A statement attesting to the truth, to the best of the signer's knowledge, of all information included in or with the notice.
  - d. The signature, under penalty of perjury, of the claimant or a person authorized to act on behalf of the claimant. (2015-218, s. 2; 2015-241, s. 14.30(c).)

**§ 121-52. Acquisition of title to loaned property.**

(a) A museum or archives repository may acquire the title to documented property loaned to the museum or archives repository if (i) the term of the loan has expired and at least seven years have passed without written or other contact between the lender and the museum or archives repository or (ii) the term of the loan does not have an expiration date but at least seven years have passed without written or other contact between the lender and the museum or archives repository since the loan was made.

(b) To acquire title to property under this section, the museum or archives repository shall first send a notice by certified mail to the lender's last known address. The notice must include all of the following:

- (1) The lender's name and last known address.
- (2) A brief and general description of the property.
- (3) A statement that the term of the loan has been terminated.
- (4) The date or approximate date, if known, when the owner loaned the property to the museum or archives repository.
- (5) The name, address, and telephone number of the museum or archives repository representative to contact for more information or to claim ownership.
- (6) A statement that outlines the schedule and requirements for the museum or archives repository to acquire title under this section.

(c) If a valid claim to the property is not received by the museum or archives repository within 30 days from the date the notice was mailed, or if the museum or archives repository does not have an address for the lender, the museum or archives repository shall comply with the following:

- (1) If the property has an estimated value in excess of \$10,000, the museum or archives repository shall make a reasonable effort to locate and inform the owner, the owner's heirs or successors and publish a notice for no less than 365 consecutive days on an official Internet Web site created by the Department of Natural and Cultural Resources for such purpose.
- (2) If the property has an estimated value that is less than or equal to \$10,000, the museum or archives repository shall make a reasonable effort to locate and inform the owner, the owner's heirs or successors and publish a notice for no less than 180 consecutive days on an official Internet Web site created by the Department of Natural and Cultural Resources for such purpose.
- (3) The notices required by subdivisions (1) and (2) of this subsection shall include all of the following:
  - a. The information described in subdivisions (1) through (5) of subsection (b) of this section.
  - b. A digital image of the property and any documentation executed by the parties.
  - c. The date that the notice was posted.
  - d. The date that the notice will be removed from the museum or archives repository's official Internet Web site and a statement that the museum or archives repository will acquire title to the loaned property if a valid claim to the property is not received by the museum or archives repository within 45 days of that date.

(d) If the requirements of this section are satisfied and if a valid claim to the loaned property is received by the museum or archives repository within 45 days after the date of the last

publication of the notice required by subsection (c) of this section, the Department of Natural and Cultural Resources shall have 45 days to determine whether the claim is valid and that the claimant is the legal owner of the artifact. If the Department determines that the claim is valid and that the claimant is the legal owner of the artifact, the Department shall return the artifact to the owner at the owner's expense.

(e) If the requirements of this section are satisfied and if a valid claim to the loaned property is not received by the museum or archives repository within 45 days after the date of the last publication of the notice required by subsection (c) of this section, the museum or archives repository acquires the title to the property on the forty-sixth day after the date of the last publication of the notice under subsection (c) of this section. Upon acquiring title, the museum or archives repository shall own the property free and clear from all claims of ownership. (2015-218, s. 2; 2015-241, s. 14.30(c).)

#### **§ 121-53. Disputed ownership.**

(a) If the Department determines that the claim of ownership is not valid and rejects the claim to the artifact, the claimant may appeal the determination as provided by Chapter 150B of the General Statutes. The burden shall be on the claimant to prove that the claimant is the legal owner of the property.

(b) Nothing in this Article shall be construed to convert a loan into a bailment. All equitable and legal defenses shall be available to museums and archives repositories in the event of a dispute over ownership.

(c) In cases of disputed ownership of loaned property, a museum or archives repository may maintain possession of loaned property during the dispute and shall not be held liable for its refusal to surrender loaned property in its possession except in reliance upon a court order or judgment. (2015-218, s. 2.)

#### **§ 121-54. Responsibilities of owners of loaned property; representation of ownership.**

(a) Lender's Responsibilities. – In all cases, it shall be the responsibility of the owner of loaned property to notify the museum or archives repository in writing of the owner's identity and current address. It shall be the responsibility of any new owner acquiring loaned property to notify the museum or archives repository within 60 days of his or her name and address. Any owner of loaned property shall, upon request from a museum or archives repository holding loaned property, promptly provide evidence of ownership satisfactory to the museum or archives repository. This section shall apply to all changes in ownership, whether by sale, gift, devise, operation of law, or any other means. So long as a museum or archives repository deals honestly and in good faith, no museum or archives repository shall be prejudiced by reason of any failure to deal with the true owner of any loaned property if the owner has failed to comply with the requirements of this section.

(b) Representation of Ownership. – A museum or archives repository shall not be liable for actions taken in reasonable reliance upon the representations of the person who first transfers an item of property to the museum or archives repository that the transferee is the true owner of the loaned property. (2015-218, s. 2.)

#### **§ 121-55. Museum or archives repository's lien for expenses.**

(a) When the lender of loaned property is known, a museum or archives repository may charge the lender expenses for the reasonable care of loaned property unclaimed after the expiration date of the loan.

(b) When the lender of loaned property is unknown, a museum or archives repository may place a lien against the value of specific loaned property for expenses reasonably necessary to protect the loaned property from ordinary decay and deterioration due to natural causes, theft, or vandalism. (2015-218, s. 2.)

**§ 121-56. Acquisition of undocumented property.**

(a) Property in the possession of a museum or archives repository that the museum or archives repository has reason to believe may be on loan and for which the museum or archives repository does not know the owner or have any reasonable means of determining the owner becomes the property of the museum or archives repository as provided in this section. If no person has claimed the property within seven years after the museum or archives repository or a predecessor or assignor of the museum or archives repository took possession of the property, then the museum or archives repository shall follow the notification process set out in G.S. 121-52(c). Pursuant to G.S. 121-52(d), if the Department receives a claim and determines that the claim is valid and that the claimant is the legal owner of the artifact, the Department shall return the artifact to the owner at the owner's expense. Otherwise, after following the notification process and consistent with G.S. 121-52(e), the museum or archives repository shall become the owner of the property, shall acquire title to the property and shall own the property free and clear from all claims of ownership.

(b) The requirements of G.S. 121-52 and G.S. 121-53 shall apply to valid and disputed claims of ownership to undocumented property. (2015-218, s. 2.)

**§ 121-57. Exclusivity of provisions.**

The provisions of this Article shall control the procedure and disposition of any property to which it applies in lieu of any other procedure prescribed by law. (2015-218, s. 2.)