New Jersey Old Loans Legislations:

New Jersey has a new law to help museums. Public Law 2011, Chapter Law 109, signed into law on August 18th, 2011, is the Museum Unclaimed Loan act, which allows New Jersey museums to go through a legal process to acquire title to loans which have been forgotten by their owners. Introduced and shepherded through the legislative process by the Honorable Thomas Kean, Jr., a member of the Newark Museum Board of Trustees, the law passed unanimously. We thank him and United States Congressman Leonard Lance, who had initially been involved with the legislation and worked with the Kean office to make the process seamless. The law stems from a model developed by the Mid-Atlantic Association of Museums Registrars Committee with input from two stellar museum lawyers: Marie Malaro and Ildiko deAngelis, both formerly of the General Counsel’s office of the Smithsonian Institution. Registrars from the state met with Rebecca Buck of the Newark Museum staff, who had chaired RC-MAAM when the model was developed, and shaped it to reflect New Jersey needs and New Jersey law. Maureen McCormick, Chief Registrar of the Princeton Art Museum and Lorraine Sciarra of the Princeton Office of the General Counsel were instrumental in developing the final wording of the bill. Margaret O’Reilly of the New Jersey State Museum took the lead in tracking the bill and will work with Rebecca Buck to educate museums around the state to implement and comply with the legislation. The partnerships involved, and the positive outcome, will allow New Jersey collecting institutions to resolve problems with collections that have been stagnant for years. Senator Kean has been an outstanding ally, and we appreciate his understanding and leadership.

Title 46.
Subtitle 6.
Chapter
30D.(New)
Museum
Unclaimed Loan
Act
§§1-11-
C.46:30D-1 to
46:30D-11

P.L.2011, CHAPTER 109, approved August 18, 2011
Senate, No. 1882 (First Reprint)

1 AN ACT concerning the disposition of unclaimed property on loan
to a museum and supplementing Title 52 of the Revised Statutes.

BE IT ENACTED by the Senate and General Assembly of the State
of New Jersey:

1. This act shall be known and may be cited as the "Museum
Unclaimed Loan Act."

2. The Legislature finds and declares that the people of the
State of New Jersey have an interest in the maintenance and growth
of museum collections and in the preservation and protection of
property on loan to museums within this State. Loans of property
that are of artistic, historic, cultural, and scientific value are made to
museums in furtherance of their educational and other charitable
purposes. When lenders fail to stay in contact with museums with
respect to property on loan, museums must store and care for the
property long after the relevant loan period has expired or should
reasonably be deemed expired. Museums have limited rights to the
use and care of such property, all the while bearing substantial costs
related to storage, record keeping, climate control, security,
periodic inspection, insurance, and general overhead.

Therefore, it is in the public interest to encourage both museums
and lenders to use due diligence in monitoring property on loan;
resolve the issue of title to property on loan that is unclaimed and
remains in the custody of museums; and allocate fairly the
responsibilities between lenders and museums.

The purpose of this act, the Museum Unclaimed Loan Act, is to
establish standards and procedures for the disposition of unclaimed
property on loan to museums and this act should be interpreted in
accordance with these findings and declaratons.

EXPLANATION – Matter enclosed in bold-faced brackets [ihus] in the above bill is
not enacted and is intended to be omitted in the law.
Matter underlined thus is new matter.
Matter enclosed in superscript numerals has been adopted as follows:
Senate SSG committee amendments adopted December 9, 2010.
3. As used in this act:

“Claimant” means an individual, association, partnership, corporation, trust, estate, or other entity, other than the lender of record, claiming or establishing title to or an interest in property that is on loan to a museum.

“Lender” means an individual, association, partnership, corporation, trust, estate, or other entity having title to or an interest in property on loan to a museum.

“Loan” means a deposit of property with a museum for a specified or unspecified period of time that does not involve a transfer of title to or interest in the property.

“Museum” means a public or private nonprofit agency or institution, and any agency or institution of the State or a political subdivision of the State, located in the State of New Jersey that:

1. is organized on a permanent basis;
2. is operated primarily for cultural, aesthetic, educational, scientific, or historic preservation purposes;
3. utilizes a professional staff;
4. owns, borrows, cares for, exhibits, studies, archives, or catalogues tangible animate or inanimate objects; and
5. makes them available to the public on a regular basis.

The term “museum” includes, but is not limited to: art, history, science, and natural history museums; educational institutions; historical societies; historic sites; landmarks; parks; archives; monuments; botanical gardens; arboreta; zoos; nature centers; planetaria; aquaria; libraries; and technology centers.

“Property” means tangible animate or inanimate objects.

4. a. Unless a written loan agreement specifically provides otherwise, a museum may give notice of its intent to terminate a loan of property under the following circumstances:

1. the property is on loan to the museum for an indefinite period of time and the lender, or anyone acting legitimately on the lender’s behalf, has not contacted the museum with respect to the loan for at least ten years from the beginning date of the loan; or
2. the property is on loan to the museum for a specified period of time and the lender, or anyone acting legitimately on the lender’s behalf, has not contacted the museum with respect to the loan for at least five years from the expiration date of the loan.

b. Any notice given by a museum pursuant to this act for the purpose of terminating a loan of property shall contain the following information:

1. a description of the property in sufficient detail for ready identification;
2. the last known name and address of the lender or a potential claimant;
3. the date of the loan, if known, or the approximate date the property was deposited with the museum;
the name and address of the museum; and

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

5. a. If a museum intends to terminate a loan of property, the
museum shall give notice to the lender of its intention at the last
known address of the lender. The museum shall undertake a
reasonable search in good faith to identify the lender and the
lender's last known address from the museum records and other
records reasonably available to the museum. The same notice shall
be given, and the same search shall be undertaken, by the museum
if the museum has knowledge of the existence of a potential
claimant.

If the museum identifies the lender or a potential claimant and
the last known address of the lender or potential claimant, the notice
shall be sent to the lender or potential claimant by certified mail,
return receipt requested, to the last known address. Notice shall be
deemed given if the museum receives a return receipt showing
delivery to the lender or potential claimant within 30 days of the
mailing of the notice. The date of a notice shall be deemed to be
the date of delivery to the person to whom it was sent.

b. A notice of intent to terminate a loan of property sent to the
lender or a potential claimant pursuant to subsection a. of this
section shall include, in addition to the information required by
subsection b. of section 3 of this act, a statement indicating:
the intent of the museum to terminate the loan;
the date of the notice;
that the lender or potential claimant must contact the museum in
order to establish title to or an interest in the property and make
arrangements to take possession of the property; and
that failure to contact the museum within 180 days after the date
of the notice will result in the loss of title to or an interest in the
property pursuant to section 6 of this act.

6. a. If a museum intends to terminate a loan of property and
has been unable to give notice in accordance with section 4 of this
act, the museum shall give notice by publication of intent to
terminate a loan of property. Publication shall be by means of a
notice placed at least twice, 60 or more days apart, in a newspaper
of general circulation in the county or municipality in which the
museum is located and in which the last known address of the
lender, if known, is located [\text{in the following manner}].

b. A published notice of intent to terminate a loan shall
include, in addition to the information required in sections 3 and 4
of this act, a request that any person who has knowledge of the
lender or potential claimant and where the lender or potential
claimant may be located should provide written notice to the
museum. If such a written notice is received by the museum, the
museum shall provide the notice to the lender or potential claimant
required pursuant to section 4 of this act.

c. In addition to the method of notice designated in subsection
a. of this section, a museum may, whenever practicable, use an
emerging technology to publish such a notice in order to reach as
broad a circulation as possible.

7. A museum shall acquire good title to property on loan to the
museum under the following circumstances:

The museum provides, on or after the effective date of this act,
notice pursuant to section 4 of this act and receives a return receipt
showing delivery of the notice to the lender or a potential claimant
within 30 days of the mailing of the notice, but the museum is not
contacted by the lender or potential claimant within 180 days after
the date of the notice; and

The museum provides, on or after the effective date of this act,
notice by publication pursuant to section 5 of this act, but the
museum is not contacted by the lender or potential claimant within
180 days of the date of the second or last notice by publication.

8. a. A person who purchases or otherwise acquires property
from a museum acquires good title to the property if the museum
has acquired good title to the property in accordance with this act.

b. No action shall be brought against a museum, or its officers,
trustees, directors, employees, or agents, to recover property on
loan to the museum after the museum has acquired good title in
accordance with this act.

c. If there are two or more claimants to property on loan to a
museum, the burden shall be upon each claimant to prove title to or
an interest in the property. A museum shall not be held liable for
delivering property to an uncontested claimant who produces
reasonable proof of title to or an interest in the property satisfactory
to the museum.

d. Unless there is evidence of bad faith or gross negligence, a
museum shall not be prejudiced by reason of any failure to deal
with a person who has title to or an interest in property on loan to
the museum.

e. If there is a dispute as to the title to or an interest in property
on loan to a museum, a museum shall not be held liable for its
refusal to deliver the property except in accordance with a court
order or judgment.

9. a. For a loan of property to a museum made on or after the
effective date of this act, the museum shall, at the time of the loan:

(1) make and retain a written record containing:

the name, address, and telephone number of the lender,
a description of the property in sufficient detail for ready identification, the beginning date of the loan, and the expiration date of the loan;

(2) provide the lender with a signed receipt or agreement containing, at least, the information set forth in paragraph (1) of this subsection; and

(3) inform the lender in writing of the existence of this act and provide the lender with a copy of this act upon the lender’s request.

b. With respect to any property on loan to a museum, a museum shall:

(1) update its record if a lender informs the museum of a change of address or change in the title to or interest in the property, or if the lender and museum negotiate a change in the duration of the loan; and

(2) inform the lender in writing of the existence of this act when renewing or updating the record and provide the lender with a copy of this act upon the lender’s request.

10. a. The lender, or any purchaser, donee, successor, or other assignee of the lender’s interest in the property, shall promptly notify the museum in writing of a change in the lender’s address or of a change in the title to or interest in the property.

b. A purchaser, donee, successor, or other assignee of the lender’s interest shall establish title to or interest in the property by producing reasonable proof satisfactory to the museum.

11. a. A lender and museum may agree in writing to terms and conditions for a loan of property different than the provisions set forth in this act.

b. Except as otherwise specifically provided by law, regulation, or rule, property on loan to a museum shall not escheat to the State under any State unclaimed property law.

c. An interest in or right to property on loan to a museum other than that specifically addressed in this act shall not be affected by this act.

d. A museum shall have a lien for expenses incurred for the reasonable care of property on loan to the museum that is unclaimed after the museum complies, on or after the effective date of this act, with sections 4 and 5 of this act.

e. This act shall apply with regard to any property loaned to a museum before the effective date of this act.

12. This act shall take effect immediately.
Provides standards and procedures for museum to acquire title to property that is on loan to museum but has not been claimed by lender for period of time.