

# HOUSE . . . . . No. 3393

By Mr. Bosley of North Adams, petition of Daniel E. Bosley relative to museums and archives repositories. Tourism, Arts and Cultural Development.

## The Commonwealth of Massachusetts

In the Year Two Thousand and Seven.

AN ACT RELATIVE TO MUSEUMS AND ARCHIVE REPOSITORIES.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 The General Laws, as appearing in the 2002 Official Edition, are  
2 hereby amended by inserting after Chapter 200A the following new  
3 chapter:—

### 4 Chapter 200B.

5 Section 1. Definitions. As used in this section, the following  
6 words shall, unless the context otherwise requires, have the  
7 following meanings:—

8 “Archives repository”, a nonprofit organization or a public  
9 agency whose primary functions include selecting, preserving, and  
10 making available records of historical or enduring value, and that is  
11 open to the public on a regular basis. Archives repository does not  
12 include a public library.

13 “Loan”, the placement of property with a museum or archives  
14 repository that is not accompanied by a transfer of title of the prop-  
15 erty to the museum or archives repository and for which there is  
16 some record that the owner intended to retain title to the property.  
17 Loan does not include transfers between museums, between archives  
18 repositories, or between museums and archives repositories unless  
19 the transferring institution specifically provides in writing that the  
20 transfer is a loan under this section.

21 “Museum”, a nonprofit organization or a public agency that is  
22 operated primarily for the purpose of collecting, cataloging, pre-

23 serving, or exhibiting property of educational, scientific, historic,  
24 cultural, or aesthetic interest and that is open to the public on a reg-  
25 ular basis. Museum does not include a public library.

26 “Property”, personal property.

27 Section 2. Loans of Property to a Museum or Archives Reposi-  
28 tory. Each museum or archives repository shall keep accurate  
29 records of all property on loan to the museum or archives repository,  
30 including the name and address of the owner, if known, and the  
31 beginning and ending date of the loan period. At the time that a  
32 person makes a loan to a museum or archives repository, the  
33 museum or archives repository shall give the owner of the property a  
34 copy of this section. If a museum or archives repository is notified of  
35 a change in the ownership of any property loaned to a museum or  
36 archives repository, the museum or archives repository shall inform  
37 the new owner of the provisions of the loan agreement and shall  
38 send the new owner a copy of this section. Not less than 90 days  
39 before a museum or archives repository changes its address or dis-  
40 solves, the museum or archives repository shall notify all owners of  
41 that change of address or dissolution. If a museum or archives repos-  
42 itory becomes the owner of property pursuant to this chapter, the  
43 museum or archives repository shall maintain any records that the  
44 museum or archives repository has regarding the property for not  
45 less than two years after the date on which the museum or archives  
46 repository becomes the owner of the property.

47 The owner of property loaned to a museum or archives repository  
48 shall provide the museum or archives repository with written notice  
49 of any change of the owner’s address, of the owner’s designated  
50 agent, of the designated agent’s address, and of the name and  
51 address of the new owner if there is a change in the ownership of the  
52 property loaned to the museum or archives repository.

53 Section 3. Acquiring Title to Abandoned Property. Property  
54 loaned to a museum or archives repository whose loan has an expira-  
55 tion date is abandoned when there has not been written contact  
56 between the owner and the museum or archives repository for at  
57 least seven years after that expiration date. If the loan has no expira-  
58 tion date, the property is abandoned when there has not been written  
59 contact between the owner and the museum or archives repository  
60 for at least seven years after the museum or archives repository took  
61 possession of the property.

62 If a museum or archives repository wishes to acquire title to aban-  
63 doned property, the museum or archives repository shall, not less  
64 than 60 days after property is abandoned pursuant to this section,  
65 send a notice by certified mail with return receipt requested to the  
66 owner's last known address. The notice shall contain all of the  
67 following:— a statement that the loan is terminated and that the  
68 property is abandoned; a description of the property; a statement that  
69 the museum or archives repository will become the owner of the  
70 property if the present owner does not submit a written claim to the  
71 property to the museum or archives repository within 60 days after  
72 receipt of the notice; and a statement that the museum or archives  
73 repository will make arrangements with the owner to return the  
74 property to the owner or dispose of the property as the owner  
75 requests if the owner submits a written claim to the property to the  
76 museum or archives repository within 60 days after receipt of the  
77 notice. This notice shall be substantially in the following form:—

78 NOTICE OF ABANDONMENT OF PROPERTY

79 Please be advised that the loan agreement is terminated for the  
80 following property (describe the property in sufficient detail to iden-  
81 tify the property):—

82 The above described property that you loaned to (name and  
83 address of museum or archives repository) will be considered aban-  
84 doned by you and will become the property of (name of museum or  
85 archives repository) if you fail to submit to the museum or archives  
86 repository a written claim to the property within 60 days after receipt  
87 of this notice. If you do submit a written claim to the property within  
88 60 days after receipt of this notice, (name of museum or archives  
89 repository) will arrange to return the property to you or dispose of  
90 the property as you request. The cost of returning the property to you  
91 or disposing of the property is your responsibility unless you have  
92 made other arrangements with the museum or archives repository.

93 If the notice sent by the museum or archives repository pursuant  
94 to this section is returned to the museum or archives repository  
95 undelivered, the museum or archives repository shall give notice of  
96 the abandoned property by publication, and the organization's Web  
97 site, if applicable, containing the following:— the name and last  
98 known address of the present owner; a description of the property; a  
99 statement that the property is abandoned and that the museum or  
100 archives repository will become the owner of the property if no

101 person can prove their ownership of the property; a statement that a  
102 person claiming ownership of the property shall notify the museum  
103 or archives repository in writing of that claim within 60 days after  
104 publication of the last legal notice; and the name and mailing  
105 address of the person who may be contacted at the museum or  
106 archives repository if a person wants to submit a written claim to the  
107 property.

108 If the museum or archives repository receives a timely written  
109 claim for the property from the owner or the owner's agent in  
110 response to the notice sent pursuant to this section, the museum or  
111 archives repository shall return the property to the owner or dispose  
112 of the property as the owner requests. The owner shall advise the  
113 museum or archives repository in writing as to how the property  
114 shall be disposed of or returned to the owner. Costs of returning the  
115 property or disposing of the property shall be the responsibility of  
116 the owner unless the owner and the museum or archives repository  
117 have made other arrangements.

118 If the museum or archives repository receives a timely written  
119 claim for the property from a person other than the person who  
120 loaned the property to the museum or archives repository in  
121 response to the notice sent pursuant to this section, the museum or  
122 archives repository shall, within 60 days after receipt of the written  
123 claim, determine if the claim is valid. A claimant shall submit proof  
124 of ownership with the claim. If more than one person submits a  
125 timely written claim, the museum or archives repository may delay  
126 its determination of ownership until the competing claims are  
127 resolved by agreement or legal action. If the museum or archives  
128 repository determines that the claim is valid, or if the competing  
129 claims are resolved by agreement or judicial action, the museum or  
130 archives repository shall return the property to the claimant submit-  
131 ting the valid claim or dispose of the property as the valid claimant  
132 requests. Costs of returning the property or disposing of the property  
133 shall be the responsibility of the valid claimant.

134 If the museum or archives repository does not receive a timely  
135 written claim to the property or if the museum or archives repository  
136 determines that no valid timely claim to the property was submitted,  
137 the museum or archives repository becomes the owner of the prop-  
138 erty. The museum or archives repository becomes the owner of the  
139 property on the day after the period for submitting a written claim

140 ends or on the day after the museum or archives repository deter-  
141 mines that no valid timely written claim was submitted. The  
142 museum or archives repository owns the property free from all  
143 claims.

144 Section 4. Acquisition. Property in the possession of a museum or  
145 archives repository which the museum or archives repository has  
146 reason to believe may be on loan and, for which the museum or  
147 archives repository does not know the owner, or have any reasonable  
148 means of determining the owner, becomes the property of the  
149 museum or archives repository if no person has claimed the property  
150 within seven years after the museum or archives repository took pos-  
151 session of the property. The museum or archives repository becomes  
152 the owner of the property on the day after the seven-year period  
153 ends, and after following the notification process outlined pursuant  
154 to this section, free from all claims.

155 The museum or archives repository that wishes to acquire title to  
156 undocumented property described in subdivision 1 shall provide  
157 public notice in the manner described pursuant to Section 3.

158 property that:— is found in or on property controlled by the  
159 museum; is from an unknown source; and might reasonably be  
160 assumed to have been intended as a gift to the museum, is conclu-  
161 sively presumed to be a gift to the museum if ownership of the prop-  
162 erty is not claimed by a person within 90 days of its discovery.

163 Section 5. Protection of Loaned Property. Unless there is a written  
164 loan agreement to the contrary, a museum may apply conservation  
165 measures to property on loan to the museum without the lender's  
166 permission or formal notice if action is required to protect the prop-  
167 erty on loan or other property in the custody of the museum, or the  
168 property on loan is a hazard to the health and safety of the public or  
169 the museum staff, and either:— the museum is unable to reach the  
170 lender at the lender's last known address within three days before  
171 the time the museum determines action is necessary; or the lender  
172 does not respond or will not agree to the protective measures the  
173 museum recommends and does not terminate the loan and retrieve  
174 the property within three days.

175 If a museum applies conservation measures to property under this  
176 section, or with the agreement of the lender, unless the agreement  
177 provides otherwise, the museum acquires a lien on the property in  
178 the amount of the costs incurred by the museum.

179 The museum is not liable for injury to or loss of the property if  
180 the museum:— had a reasonable belief at the time the action was  
181 taken that the action was necessary to protect the property on loan or  
182 other property in the custody of the museum, or that the property on  
183 loan was a hazard to the health and safety of the public or the  
184 museum staff; and exercised reasonable care in the choice and appli-  
185 cation of conservation measures.

186 Section 6. Title. This act shall be known as “The Massachusetts  
187 Museum Property Act”.