

**HOUSE . . . . . No.**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

**Daniel E. Bosley**

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act relative to museums and archive repositories.

PETITION OF:

NAME:

Daniel E. Bosley

DISTRICT/ADDRESS:

1st Berkshire

[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE HOUSE, NO. 3393 OF 2007-2008.]

## The Commonwealth of Massachusetts

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In the Year Two Thousand and Nine

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### 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 are hereby amended by inserting after chapter 200A the following chapter:

2

3 Chapter 200B. The Massachusetts Museum Property Act

4

5 Section 1. As used in this chapter, the following words shall, unless the context clearly otherwise  
6 requires, have the following meanings:-

7

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

11

12 "Loan" , the placement of property with a museum or archives repository that is not accompanied by a  
13 transfer of title of the property to the museum or archives repository and for which there is some record  
14 that the owner intended to retain title to the property. Loan does not include transfers between museums,

15 between archives repositories, or between museums and archives repositories unless the transferring  
16 institution specifically provides in writing that the transfer is a loan under this section.

17

18 "Museum", a nonprofit organization or a public agency that is operated primarily for the purpose of  
19 collecting, cataloging, preserving, or exhibiting property of educational, scientific, historic, cultural, or  
20 aesthetic interest and that is open to the public on a regular basis. Museum does not include a public  
21 library.

22

23 "Property", personal property.

24

25 Section 2. (a) Each museum or archives repository shall keep accurate records of all property on loan to  
26 the museum or archives repository, including the name and address of the owner, if known, and the  
27 beginning and ending date of the loan period. At the time that a person makes a loan to a museum or  
28 archives repository, the museum or archives repository shall give the owner of the property a copy of this  
29 section. If a museum or archives repository is notified of a change in the ownership of any property  
30 loaned to a museum or archives repository, the museum or archives repository shall inform the new  
31 owner of the provisions of the loan agreement and shall send the new owner a copy of this section. Not  
32 less than 90 days before a museum or archives repository changes its address or dissolves, the museum or  
33 archives repository shall notify all owners of that change of address or dissolution. If a museum or  
34 archives repository becomes the owner of property pursuant to this chapter, the museum or archives  
35 repository shall maintain any records that the museum or archives repository has regarding the property  
36 for not less than 2 years after the date on which the museum or archives repository becomes the owner of  
37 the property.

38 (b) The owner of property loaned to a museum or archives repository shall provide the museum or  
39 archives repository with written notice of any change of the owner's address, of the owner's designated  
40 agent, of the designated agent's address, and of the name and address of the new owner if there is a  
41 change in the ownership of the property loaned to the museum or archives repository.

42

43 Section 3. (a) Property loaned to a museum or archives repository whose loan has an expiration date is  
44 abandoned when there has not been written contact between the owner and the museum or archives  
45 repository for at least 7 years after that expiration date. If the loan has no expiration date, the property is

46 abandoned when there has not been written contact between the owner and the museum or archives  
47 repository for at least 7 years after the museum or archives repository took possession of the property.

48

49 (b) If a museum or archives repository wishes to acquire title to abandoned property, the museum or  
50 archives repository shall, not less than 60 days after property is abandoned pursuant to this section, send a  
51 notice by certified mail with return receipt requested to the owner's last known address. The notice shall  
52 contain all of the following: a statement that the loan is terminated and that the property is abandoned; a  
53 description of the property; a statement that the museum or archives repository will become the owner of  
54 the property if the present owner does not submit a written claim to the property to the museum or  
55 archives repository within 60 days after receipt of the notice; and a statement that the museum or archives  
56 repository will make arrangements with the owner to return the property to the owner or dispose of the  
57 property as the owner requests if the owner submits a written claim to the property to the museum or  
58 archives repository within 60 days after receipt of the notice. This notice shall be substantially in the  
59 following form:

60

61 NOTICE OF ABANDONMENT OF PROPERTY

62

63 Please be advised that the loan agreement is terminated for the following property (describe the  
64 property in sufficient detail to identify the property):

65

66 The above described property that you loaned to (name and address of museum or archives  
67 repository) will be considered abandoned by you and will become the property of (name of museum or  
68 archives repository) if you fail to submit to the museum or archives repository a written claim to the  
69 property within 60 days after receipt of this notice. If you do submit a written claim to the property  
70 within 60 days after receipt of this notice, (name of museum or archives repository) will arrange to return  
71 the property to you or dispose of the property as you request. The cost of returning the property to you or  
72 disposing of the property is your responsibility unless you have made other arrangements with the  
73 museum or archives repository.

74

75 (c) If the notice sent by the museum or archives repository pursuant to this section is returned to the  
76 museum or archives repository undelivered, the museum or archives repository shall give notice of the

77 abandoned property by publication, and the organization's website, if applicable, containing the  
78 following: the name and last known address of the present owner; a description of the property; a  
79 statement that the property is abandoned and that the museum or archives repository will become the  
80 owner of the property if no person can prove their ownership of the property; a statement that a person  
81 claiming ownership of the property shall notify the museum or archives repository in writing of that claim  
82 within 60 days after publication of the last legal notice; and the name and mailing address of the person  
83 who may be contacted at the museum or archives repository if a person wants to submit a written claim to  
84 the property.

85

86 (d) If the museum or archives repository receives a timely written claim for the property from the owner  
87 or the owner's agent in response to the notice sent pursuant to this section, the museum or archives  
88 repository shall return the property to the owner or dispose of the property as the owner requests. The  
89 owner shall advise the museum or archives repository in writing as to how the property shall be disposed  
90 of or returned to the owner. Costs of returning the property or disposing of the property shall be the  
91 responsibility of the owner unless the owner and the museum or archives repository have made other  
92 arrangements.

93

94 (e) If the museum or archives repository receives a timely written claim for the property from a person  
95 other than the person who loaned the property to the museum or archives repository in response to the  
96 notice sent pursuant to this section, the museum or archives repository shall, within 60 days after receipt  
97 of the written claim, determine if the claim is valid. A claimant shall submit proof of ownership with the  
98 claim. If more than one person submits a timely written claim, the museum or archives repository may  
99 delay its determination of ownership until the competing claims are resolved by agreement or legal action.  
100 If the museum or archives repository determines that the claim is valid, or if the competing claims are  
101 resolved by agreement or judicial action, the museum or archives repository shall return the property to  
102 the claimant submitting the valid claim or dispose of the property as the valid claimant requests. Costs of  
103 returning the property or disposing of the property shall be the responsibility of the valid claimant.

104

105 (f) If the museum or archives repository does not receive a timely written claim to the property or if the  
106 museum or archives repository determines that no valid timely claim to the property was submitted, the  
107 museum or archives repository becomes the owner of the property. The museum or archives repository  
108 becomes the owner of the property on the day after the period for submitting a written claim ends or on

109 the day after the museum or archives repository determines that no valid timely written claim was  
110 submitted. The museum or archives repository owns the property free from all claims.

111

112 Section 4. (a) Property in the possession of a museum or archives repository which the museum or  
113 archives repository has reason to believe may be on loan and, for which the museum or archives  
114 repository does not know the owner, or have any reasonable means of determining the owner, becomes  
115 the property of the museum or archives repository if no person has claimed the property within 7 years  
116 after the museum or archives repository took possession of the property. The museum or archives  
117 repository becomes the owner of the property on the day after the 7-year period ends, and after following  
118 the notification process outlined pursuant to this section, free from all claims.

119

120 (b) The museum or archives repository that wishes to acquire title to undocumented property described in  
121 subsection (a) shall provide public notice in the manner described in section 2.

122

123 Section 5. Property that is found in or on property controlled by the museum; is from an unknown  
124 source; and might reasonably be assumed to have been intended as a gift to the museum, is conclusively  
125 presumed to be a gift to the museum if ownership of the property is not claimed by a person within 90  
126 days of its discovery.

127

128 Section 6. (a) Unless there is a written loan agreement to the contrary, a museum may apply conservation  
129 measures to property on loan to the museum without the lender's permission or formal notice if action is  
130 required to protect the property on loan or other property in the custody of the museum, or the property on  
131 loan is a hazard to the health and safety of the public or the museum staff, and either: the museum is  
132 unable to reach the lender at the lender's last known address within 3 days before the time the museum  
133 determines action is necessary; or the lender does not respond or will not agree to the protective measures  
134 the museum recommends and does not terminate the loan and retrieve the property within 3 days.

135

136 (b) If a museum applies conservation measures to property under this section, or with the agreement of  
137 the lender, unless the agreement provides otherwise, the museum acquires a lien on the property in the  
138 amount of the costs incurred by the museum.

139

140 (c) The museum is not liable for injury to or loss of the property if the museum: had a reasonable belief at  
141 the time the action was taken that the action was necessary to protect the property on loan or other  
142 property in the custody of the museum, or that the property on loan was a hazard to the health and safety  
143 of the public or the museum staff, and exercised reasonable care in the choice and application of  
144 conservation measures.

145

146 Section 7. This act shall be known as "The Massachusetts Museum Property Act".