

Senate Bill 195

By: Senators Schaefer of the 50th, Rogers of the 21st, Carter of the 13th, Chance of the 16th,
Pearson of the 51st and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 1 of Title 10 of the Official Code of Georgia Annotated, relating to selling
2 and other trade practices, so as to regulate loans to and abandoned property of museums and
3 archives repositories; to provide a short title; to define certain terms; to provide a process for
4 establishing ownership of property loaned to museums and archives repositories; to provide
5 for notice; to provide for other related matters; to repeal conflicting laws; and for other
6 purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Chapter 1 of Title 10 of the Official Code of Georgia Annotated, relating to selling and other
10 trade practices, is amended by inserting immediately following Article 17A, relating to
11 consignment of art, a new Article 17B to read as follows:

12 "ARTICLE 17B

13 10-1-529.1.

14 This article shall be known and may be cited as the 'Georgia Museum Property Act.'

15 10-1-529.2.

16 As used in this article, the term:

17 (1) 'Archives repository' means a nonprofit organization or a public agency whose
18 primary functions include selecting, preserving, and making available records of
19 historical or enduring value and that is open to the public on a regular basis. Archives
20 repository does not include a public library.

21 (2) 'Loan' means the placement of property with a museum or archives repository that is
22 not accompanied by a transfer of title of the property to the museum or archives
23 repository and for which there is some record that the owner intended to retain title to the

1 property. Loan does not include transfers between museums, between archives
2 repositories, or between museums and archives repositories unless the transferring
3 institution specifically provides in writing that the transfer is a loan under this article.

4 (3) 'Museum' means a nonprofit organization or a public agency that is operated primarily
5 for the purpose of collecting, cataloging, preserving, or exhibiting property of
6 educational, scientific, historic, cultural, or aesthetic interest and that is open to the public
7 on a regular basis. Museum does not include a public library.

8 (4) 'Property' means personal property.

9 10-1-529.3.

10 (a) Each museum or archives repository shall keep accurate records of all property on loan
11 to the museum or archives repository, including the name and address of the owner, if
12 known, and the beginning and ending date of the loan period. At the time that a person
13 makes a loan to a museum or archives repository, the museum or archives repository shall
14 give the owner of the property a copy of this article. If a museum or archives repository is
15 notified of a change in the ownership of any property loaned to a museum or archives
16 repository, the museum or archives repository shall inform the new owner of the provisions
17 of the loan agreement and shall send the new owner a copy of this article. Not less than 90
18 days before a museum or archives repository changes its address or dissolves, the museum
19 or archives repository shall notify all owners of that change of address or dissolution. If a
20 museum or archives repository becomes the owner of property under Code Section
21 10-1-529.4 or 10-1-529.5, the museum or archives repository shall maintain any records
22 that the museum or archives repository has regarding the property for not less than two
23 years after the date on which the museum or archives repository becomes the owner of the
24 property.

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

30 10-1-529.4.

31 (a) Property loaned to a museum or archives repository whose loan has an expiration date
32 is abandoned when there has not been written contact between the owner and the museum
33 or archives repository for at least seven years after that expiration date. If the loan has no
34 expiration date, the property is abandoned when there has not been written contact between

1 the owner and the museum or archives repository for at least seven years after the museum
2 or archives repository took possession of the property.

3 (b)(1) If a museum or archives repository wishes to acquire title to abandoned property,
4 the museum or archives repository shall, not less than 60 days after property is abandoned
5 under subsection (a) of this Code section, send a notice by certified mail with return
6 receipt requested to the owner's last known address. The notice shall contain all of the
7 following:

8 (A) A statement that the loan is terminated and that the property is abandoned;

9 (B) A description of the property;

10 (C) A statement that the museum or archives repository will become the owner of the
11 property if the present owner does not submit a written claim to the property to the
12 museum or archives repository within 60 days after receipt of the notice; and

13 (D) A statement that the museum or archives repository will make arrangements with
14 the owner to return the property to the owner or dispose of the property as the owner
15 requests if the owner submits a written claim to the property to the museum or archives
16 repository within 60 days after receipt of the notice.

17 (2) The notice provided for in subsection (a) of this Code section shall be substantially
18 in the following form:

19 NOTICE OF ABANDONMENT OF PROPERTY

20 To: _____ (name of owner)

21 _____ (address of owner)

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

24 _____

25 _____

26 The above-described property that you loaned to _____ (name and address of
27 museum or archives repository) will be considered abandoned by you and will become
28 the property of _____ (name of museum or archives repository) if you fail to
29 submit to the museum or archives repository a written claim to the property within 60
30 days after receipt of this notice. If you do submit a written claim to the property within
31 60 days after receipt of this notice, _____ (name of museum or archives
32 repository) will arrange to return the property to you or dispose of the property as you
33 request. The cost of returning the property to you or disposing of the property is your
34 responsibility unless you have made other arrangements with the museum or archives

1 repository. _____ (name of person to contact at museum or archives repository
2 and address of museum or archives repository).

3 (c) If the notice sent by the museum or archives repository under subsection (b) of this
4 Code section is returned to the museum or archives repository undelivered, the museum or
5 archives repository shall give notice of the abandoned property by publication, and on the
6 organization's website, if applicable, containing the following:

7 (1) The name and last known address of the present owner;

8 (2) A description of the property;

9 (3) A statement that the property is abandoned and that the museum or archives
10 repository will become the owner of the property if no person can prove ownership of
11 the property;

12 (4) A statement that a person claiming ownership of the property shall notify the
13 museum or archives repository in writing of that claim within 60 days after publication
14 of the last legal notice; and

15 (5) The name and mailing address of the person who may be contacted at the museum
16 or archives repository if a person wants to submit a written claim to the property.

17 (d) If the museum or archives repository receives a timely written claim for the property
18 from the owner or the owner's agent in response to the notice provided under subsection
19 (b) or (c) of this Code section the museum or archives repository shall return the property
20 to the owner or dispose of the property as the owner requests. The owner shall advise the
21 museum or archives repository in writing as to how the property shall be disposed of or
22 returned to the owner. Costs of returning the property or disposing of the property shall
23 be the responsibility of the owner unless the owner and the museum or archives repository
24 have made other arrangements.

25 (e) If the museum or archives repository receives a timely written claim for the property
26 from a person other than the person who loaned the property to the museum or archives
27 repository in response to the notice provided under subsection (b) or (c) of this Code
28 section, the museum or archives repository shall, within 60 days after receipt of the written
29 claim, determine if the claim is valid. A claimant shall submit proof of ownership with the
30 claim. If more than one person submits a timely written claim, the museum or archives
31 repository may delay its determination of ownership until the competing claims are
32 resolved by agreement or legal action. If the museum or archives repository determines
33 that the claim is valid or if the competing claims are resolved by agreement or judicial
34 action, the museum or archives repository shall return the property to the claimant
35 submitting the valid claim or dispose of the property as the valid claimant requests. Costs
36 of returning the property or disposing of the property shall be the responsibility of the valid
37 claimant.

1 (f) If the museum or archives repository does not receive a timely written claim to the
2 property or if the museum or archives repository determines that no valid timely claim to
3 the property was submitted, the museum or archives repository becomes the owner of the
4 property. The museum or archives repository becomes the owner of the property on the
5 day after the period for submitting a written claim ends or on the day after the museum or
6 archives repository determines that no valid timely written claim was submitted. The
7 museum or archives repository owns the property free from all claims.

8 10-1-529.5.

9 (a) Property in the possession of a museum or archives repository which the museum or
10 archives repository has reason to believe may be on loan and for which the museum or
11 archives repository does not know the owner or have any reasonable means of determining
12 the owner becomes the property of the museum or archives repository if no person has
13 claimed the property within seven years after the museum or archives repository took
14 possession of the property. The museum or archives repository becomes the owner of the
15 property on the day after the seven-year period ends and after following the notification
16 process outlined in subsection (b) of this Code section free from all claims.

17 (b) The museum or archives repository that wishes to acquire title to undocumented
18 property described in subsection (a) of this Code section shall provide public notice in the
19 manner described in Code Section 10-1-529.4.

20 (c) On or after July 1, 2005, property that:

21 (1) Is found in or on property controlled by the museum;

22 (2) Is from an unknown source; and

23 (3) Might reasonably be assumed to have been intended as a gift to the museum
24 is conclusively presumed to be a gift to the museum if ownership of the property is not
25 claimed by a person within 90 days of its discovery.

26 10-1-529.6.

27 (a) Unless there is a written loan agreement to the contrary, a museum may apply
28 conservation measures to property on loan to the museum without the lender's permission
29 or formal notice if action is required to protect the property on loan or other property in the
30 custody of the museum or the property on loan is a hazard to the health and safety of the
31 public or the museum staff, and either:

32 (1) The museum is unable to reach the lender at the lender's last known address within
33 three days before the time the museum determines action is necessary; or

34 (2) The lender does not respond or will not agree to the protective measures the museum
35 recommends and does not terminate the loan and retrieve the property within three days.

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

4 (c) The museum is not liable for injury to or loss of the property if the museum:

5 (1) Had a reasonable belief at the time the action was taken that the action was necessary
6 to protect the property on loan or other property in the custody of the museum or that the
7 property on loan was a hazard to the health and safety of the public or the museum staff;
8 and

9 (2) Exercised reasonable care in the choice and application of conservation measures."

10

SECTION 2.

11 All laws and parts of laws in conflict with this Act are repealed.