





INDIANA HISTORICAL SOCIETY COLLECTIONS ADVISOR

A RESOURCE FROM IHS LOCAL HISTORY SERVICES

LOCAL HISTORY SERVICES | INDIANA HISTORICAL SOCIETY | PAST ISSUES | FOLLOW LHS ON:  

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INDIANA'S PROPERTY LAW IN BRIEF

By Karen DePauw, coordinator, IHS Local History Services

When museums are faced with objects they are interested in deaccessioning, but they have no paperwork providing information regarding legal ownership status, they are often left to rely on laws to guide them. Some states have created laws specifically guiding museums and collecting institutions regarding "abandoned" property; property with either unknown or unreachable owners. In Indiana, information for museums is provided in the [Indiana law Title 32, Article 34, Chapter 5 "Property Loaned to Museums."](#) While written in fairly accessible language, the law can be confusing and is not always easy to figure out the guidelines for certain circumstances.

Over the years, there have been a few changes to the law. The original law can be found [here](#); and the amendments are available [here](#).

Below I have arranged the pertinent information in the law to make it easier to find an answer on how to handle common occurrences regarding "abandoned" items in the museum collection. Please note, that this is NOT legal advice. This is simply an attempt at making sense of the latest update to the Indiana Property Law from 2016 as it pertains to museum deaccessioning. ALWAYS refer to the latest version of the law and consult a lawyer regarding any questions.



[Aerial View of the State House from the Southeast Includes a View of the Grounds, 1931](#) (Bass Photo Co. Collection, Indiana Historical Society)

GAINING TITLE*



ONLINE RESOURCES

[Indiana law Title 32](#)
(Indiana Government)

[Original Indiana Property Law](#)
(Indiana Government)

[Amendments to Indiana Property Law, 2016](#)
(Indiana Government)

UPCOMING TRAINING AND PROGRAMS

[Caring for Historic Cemeteries](#)

Sept. 6 -
American Association for State and Local History webinar.

[Data in a Digital Age](#)

Sept. 11 -
Putnam-Montgomery Nonprofit Learning Series.

If:

Item is documented as loaned and:

- includes ending date or
- was intended as "permanent"

Then:

Step 1) give notice of loan termination

Step 2) if no lender response within 60 days, then museum gains title

If:

Item is documented as loaned but does NOT:

- include ending date or
- indicate it was meant as "permanent"

Then:

Step 1) item is considered abandoned if no written communication between lender/lender's agent and museum for at least seven years after the start of the loan

If:

Item is undocumented and has:

- no indication of loan
- no deed of gift
- no indication of transferred title
- no identifiable owner

Then:

Step 1) museum must have possession for three years

Step 2) give notice of asserting title

Step 3) if no lender response within 60 days, then museum gains title

If:

Item is presumed as a gift and:

- found on museum property
- from unknown source
- reasonably assumed as intended gift

Then:

Step 1) no ownership claim made within 90 days of discovery

Step 2) museum may presume item is gift



[Courtroom in Federal Building](#) (Bass Photo Co. Collection, Indiana Historical Society)

GIVING NOTICE*

If:

- name of lender/lender's agent is known
- last address of lender/lender's agent is known

Then:

Notice must be sent **by mail** to last known address

If:

- unknown identity of lender/lender's agent
- no address can be found for lender/lender's agent
- no proof of receipt of the mailed notice was received from the lender/lender's agent within 30 days after notice was mailed

Then:

Notice must be given **by publication** once a week for two consecutive weeks in a newspaper of general circulation in both the:

- county in which museum is located
- county of lender's last known address, if identity is known

Notice must include the following information:

- 1) name of lender/lender's agent (if known)
- 2) last known address of lender/lender's agent (if known)
- 3) brief description of property
- 4) date of loan (if known)
- 5) name of museum
- 6) name, address and telephone number of person/office to contact regarding property
- 7) a statement containing substantially the following information:

- by mail:

"The records at (name of museum) indicate that you have property on loan to it. The museum hereby terminates the loan. If you desire to claim the property, you must contact the museum, establish your ownership of the property, and make arrangements to collect the property. If you do not contact the museum, you will be considered to have donated the property to the museum."

- by publication:

"The records of (name of museum) fail to indicate the owner of record of certain property

in its possession. The museum hereby asserts title to the following property: (general description of property). If you claim ownership or other legal interest in this property, you must contact the museum, establish ownership of the property, and make arrangements to collect the property. If you fail to do so within sixty (60) days, you will be considered to have waived any claim you may have had to the property."



[Courtroom Scene](#) (Martin Collection, Indiana Historical Society)

LENDER'S RESPONSIBILITIES *

1) Notify museum if:

- lender/lender's agent has change of address
- ownership of property changes
- provide intent to retain an interest in property housed at museum

2) Establish ownership of property if responding to undocumented property notice

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