§ 233-a. Property of the state museum. 1. As used in this section:

(a) The term "museum" shall mean the New York state museum.

(b) The term "deaccession" shall mean the permanent removal or disposal of an object from the collection of the museum by virtue of its sale, exchange, donation or transfer by any means to any person.

(c) The term "person" shall mean any natural person, partnership, corporation, company, trust association or other entity, however organized.

(d) The term "property" means any inanimate object, document or tangible object under the office's care which has intrinsic historic, artistic, scientific, or cultural value.

(e) The term "claimant" means a person who asserts ownership or some other legal right to undocumented property held by the museum.

(f) The term "loan" means a deposit of property with the museum not accompanied by a transfer to the museum of title to the property.

(g) The term "lender" means a person whose name appears on the records of the museum as the person legally entitled to, or claiming to be legally entitled to, property held by the museum or, if deceased, the legal heirs of such person.

(h) The term "lender's address" means the most recent address for the lender shown on the museum's records pertaining to the property on loan, or if the lender is deceased, the last known address of the legal heirs of such lender.

(i) The term "permanent loan" means a loan of property to the museum for an unspecified period.

(j) The term "undocumented property" means property in the possession of the museum for which the museum cannot determine the owner by reference to its records.

(k) The term "conservation measures" means any actions taken to preserve or stabilize a property including, but not limited to, proper storage support, cleaning, proper lighting, and restoration.

2. The deaccessioning of property by the museum must be consistent with the mission of the museum.

3. Prior to the acquisition of property by gift, the museum shall provide the donor with a written copy of its mission statement and

collections policy, which shall include policies and procedures of the museum relating to deaccessioning.

4. If the museum has the knowledge of a planned bequest of any property prior to the death of the testator, the museum shall provide the testator with a written copy of its mission statement and collections policy, which shall include policies and procedures of the museum relating to deaccessioning.

6. Notice given by the museum under this section must be mailed to the lender's last known address by certified mail, return receipt requested. Service by mail is complete if the museum receives proof that the notice was received not more than thirty days after it was mailed; provided, however, notice may be given by publication if the museum does not:

(a) know the identity of the lender; or

(b) know the address of the lender; or

(c) receive proof that the notice mailed under this section was received within thirty days of mailing. Notice by publication must be given at least once a week for three consecutive weeks in a newspaper of general circulation in:

(i) the county in which the property is held by the museum; and

(ii) the county of the lender's last address, if known.

The date of notice under this subdivision shall be the date of the third published notice.

In addition to any other information that may be required or seem appropriate, any notice given under this section must contain the following:

(A) The name of the lender or claimant, if known.

(B) The last address of the lender or claimant, if known.

(C) A brief description of the property on loan to the museum referenced in the notice.

(D) The date of the loan, if known or the approximate date of acquisition of the property.

(E) The name and address of the museum.

(F) The name, address, and telephone number of the person to be

contacted regarding the property.

7. Notwithstanding any other provisions of law regarding abandoned or lost property, the museum may, beginning five years from the date the lender last contacted the museum, clarify title to property on permanent loan or loaned for a specified term that has expired. Proof of such contact shall include previously sent restricted letters or loan forms, returned envelopes, inventories and other documentary evidence. The procedure for clarifying title shall be as follows:

(a) The museum must give notice by mail to the lender that it wishes to clarify ownership rights in the property.

(b) In addition to the information described in subdivision six of this section, the notice shall be entitled "Notice of Termination" and must include a statement containing substantially the following information: "The records of the New York State Museum indicate that you have property on loan at (name of facility). The museum is seeking to determine whether you wish (i) that the museum return the property to you, (ii) that the property remain on loan to the museum subject to annual renewal (if the museum wishes that the property remain on loan), or (iii) that the museum retain the property permanently as its owner. Please contact (name of contact) in writing within one hundred twenty days, in order to advise the museum as to which of the above alternatives you wish to follow."

(c) If, no later than one hundred twenty days following receipt thereof, the lender does not respond to the notice of termination by submitting a written claim to the property on loan with verifying documentation the office shall send a second notice to the lender containing the following information: "On (date of first notice), the New York State Museum sent you a notice concerning property that, according to our records, has been loaned to the office. You have not responded to that notice, a copy of which is enclosed, and the museum will commence proceedings to acquire title to the property if you do not contact (name of contact), in writing within one hundred twenty days of receiving this second notice."

If the lender fails to respond to the second notice within one hundred twenty days of receipt, at the request of the commissioner, the attorney

general may make an application to the supreme court pursuant to article thirty of the civil practice law and rules for a declaratory judgment to determine the museum's right to such property. In a case in which there is no evidence that the notices previously sent by the museum were received by the lender, upon application, the supreme court shall specify the method by which service shall be made upon the lender.

8. Notwithstanding any other provision of law regarding abandoned or lost property the museum may acquire title to undocumented property held by the museum for at least five years as follows:

(a) The museum must give notice by publication that it is asserting title to the undocumented property.

(b) In addition to the information described herein, the notice shall be entitled "Notice of Intent to Acquire Title to Property" and must include a statement containing substantially the following information: "The records of the New York State Museum fail to indicate the owner of record of certain property in its possession. The museum hereby asserts its intent to acquire title to the following property: (general description of property). If you claim ownership of this property, you must submit written proof of ownership to the museum and make arrangements to collect the property. If you fail to do so within one hundred eighty days, the museum will commence proceedings to acquire title to the property. If you claim an interest in the property but do not possess written proof of such interest, you should submit your name and address and a written statement of your claim to (name of contact), within one hundred eighty days, in order to receive notice of any legal proceedings concerning the property. If you wish to commence legal proceedings to claim the property, you should consult your attorney."

If after one hundred eighty days following the last date of publication of such notice no claimant has responded thereto by submitting written proof of ownership of the property to the museum, or if there is a dispute between the museum and any claimant as to ownership of the property, upon the request of the commissioner, the attorney general may make an application to the supreme court pursuant to article thirty of the civil practice law and rules for a declaratory judgment to determine the museum's rights in the property.

9. A copy of all notices required by subdivision seven or eight of this section shall be sent, by certified mail, return receipt requested, to the International Foundation for Art Research, or any successor foundation or agency having similar purposes, on or before the date on which such notices are mailed or first published pursuant to the requirements of this section.

10. Any person who purchases or otherwise acquires property from the museum acquires good title to such property if the museum has acquired title in accordance with this section.

11. The provisions of subdivisions seven and eight of this section shall not apply to any property that has been reported as stolen to a law enforcement agency or to the Art Theft Archives of the International Foundation for Art Research, or any successor foundation or agency having similar purposes, no later than one year following the theft or discovery of the theft.

12. The museum shall have the following duty to lenders:

(a) When the museum accepts a loan of property, it shall inform the lender in writing of the provisions of this section.

(b) The museum shall give a lender, at the lender's address, prompt written notice by mail of any known injury to, or loss of, property on loan or of the need to apply conservation measures. Such notice shall advise the lender of his right, in lieu of the application of such conservation measures, to terminate the loan and, no later than thirty days after having received such notice, either retrieve the property or arrange for its isolation and retrieval. The museum shall not be required to publish notice of injury or loss to any undocumented property.

13. The owner of property loaned to the museum is responsible for promptly notifying the museum, in writing, of any change of address or change in the ownership of the property.

14. (a) Unless there is a written loan agreement to the contrary, the

museum may apply conservation measures to property on loan to the museum without giving formal notice or first obtaining the lender's permission if immediate action is required to protect the property on loan or other property in the custody of the museum or if the property on loan is a hazard to the health and safety of the public or the museum staff, provided that:

(i) the museum is unable to reach the lender at the lender's last known address or telephone number before the time the museum determines action is necessary; or

(ii) the lender either (A) does not respond to a request for permission to apply conservation measures made pursuant to subdivision twelve of this section within three days of receiving the request or will not agree to the conservation measures the museum recommends or (B) fails to terminate the loan and either retrieve the property or arrange for its isolation and retrieval within thirty days of receiving the request.

If immediate conservation measures are necessary to protect the property or to protect the health or safety of the public or museum staff, the conditions set forth in subparagraphs (i) and (ii) of this paragraph shall not apply.

(b) Unless provided otherwise in an agreement with the lender, if the museum applies conservation measures to property under paragraph (a) of this subdivision, and provided that the measures were not required as a result of the museum's own action or inaction, the museum shall acquire a lien on the property in the amount of the costs incurred by the museum, including, but not limited to the cost of labor and materials, and shall not be liable for injury to or loss of the property, provided that the museum:

(i) had a reasonable belief at the time the action was taken that the action was necessary to protect the property on loan or other property in the custody of the museum, or that the property on loan was a hazard to the health and safety of the public or the museum staff; and

(ii) exercised reasonable care in the choice and application of conservation measures.

15. The museum shall maintain or continue to maintain, as the case may

be and to the extent such information is available, a record of acquisition, whether by purchase, bequest, gift, loan or otherwise, of property for display or collection and of deaccessioning or loan of property currently held or thereafter acquired for display or collection. Any such record shall: (a) state the name, address, and telephone number of the person from whom such property was acquired, or to whom such property was transferred by deaccessioning or loan, and a description of such property, its location, if known, and the terms of the acquisition or deaccessioning or loan, including any restrictions as to its use or further disposition, and any other material facts about the terms and conditions of the transaction; (b) include a copy of any document of conveyance relating to the acquisition or deaccessioning or loan of such property and all notices and other documents prepared or received by the museum.

16. Notwithstanding the provisions of the civil practice law and rules or any other law, except for laws governing actions to recover stolen property:

(a) No action against the museum for damages arising out of injury to or loss of property loaned to the museum shall be commenced more than three years from the date the museum gives the lender or claimant notice of the injury or loss under this section.

(b) No action against the museum to recover property shall be commenced more than three years from the date the museum gives notice of its intent to terminate the loan or notice of intent to acquire title to undocumented property.