§ 233-aa. Property of other museums. 1. As used in this section:

(a) The term "museum" means any institution, including but not limited to museums, historical societies, zoological gardens, aquariums, botanical gardens, and arboreta, having collecting as a stated purpose in its charter, or owning or holding collections, or intending to own or hold collections, that is a governmental entity or not-for-profit corporation. The term museum does not include the state museum.

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

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

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

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

(f) The term "lender" means a person legally entitled to, or claiming to be legally entitled to, property held by the museum or, if such person is deceased, the legal heirs of such person.

(g) The term "unclaimed property" means property which is on loan to a museum and in regard to which the lender, or anyone acting legitimately on the lender's behalf, has not contacted the museum for at least ten years from the date of the beginning of the loan, if the loan was for an indefinite or undetermined period, or for at least five years after the date upon which the loan for a definite period expired.

(h) The term "undocumented property" means property that has been in the possession of a museum for at least ten years and for which the museum cannot determine the lender, donor, or owner by making a good faith and reasonable search for the identity and last known address of the lender, donor or owner from the museum records and other records reasonably available to museum staff.

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

2. The acquisition of property by a museum pursuant to this section must be consistent with the mission of the museum.

3. Prior to the acquisition of property by gift, a museum shall inform a donor or prospective donor of the provisions of this section and shall provide a donor or prospective donor with a written copy of its mission statement and collections policy, which shall include policies and procedures of the museum related to deaccessioning.

4. If the museum has 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, provided, however, that any museum that routinely makes its mission statement and collections policy available on its website shall be deemed to have complied with this subdivision.

5. Proceeds derived from the sale of any property title to which was acquired by a museum pursuant to this section shall be used only for the acquisition of property for the museum's collection or for the preservation, protection, and care of the collection and shall not be used to defray ongoing operating expenses of the museum.

6. (a) Notice by mail required by this section shall be mailed to a lender's last known address by certified mail, return receipt requested; provided, however, that notice shall be given by publication pursuant to paragraph (b) of this subdivision if the museum does not:

(i) know the identity of the lender; or

(ii) know the address of the lender; or

(iii) receive proof that the notice mailed under this section was received within thirty days of mailing.

(b) 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 paragraph shall be the date of the third

published notice.

(c) In addition to any other information required by this section, any notice given under this section must contain the following:

(i) The name of the lender, if known.

(ii) The last address of the lender, if known.

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

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

(v) The name and address of the museum.

(vi) The name, address, and telephone number of the person to be contacted regarding the property.

(d) A copy of all notices required by this section pertaining to property in the form of identifiable works of art known to have been created before nineteen hundred forty-five and to have changed hands in Europe during the Nazi era (1933-1945) shall be sent to The Art Loss Register or any successor organization having similar purposes on or before the date on which such notices are mailed or first published pursuant to the requirements of this section.

7. Unless there is a written loan agreement to the contrary, and notwithstanding any other provision of law regarding abandoned or lost property, a museum that has made a good faith and reasonable search for the identity and last known address of the lender from the museum records and other records reasonably available to museum staff may terminate a loan for unclaimed property in its possession in accordance with the provisions of this subdivision.

(a) If the museum has identified the lender and the lender's last known address, the museum shall give notice by mail, in accordance with subdivision six of this section, of its intent to terminate the loan.

(b) Such notice shall be entitled "Notice of Termination" and must include a statement containing substantially the following information: "The records of the (name of museum) indicate that you have or may 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 also wishes that the property remain on loan), or

(iii) that the museum obtain all of the lender's rights to the property, either to take the property into its collection or to dispose of the property, in its sole discretion. Please contact (name of contact) in writing within one hundred twenty days to advise the museum as to which of the above alternatives you wish to follow."

(c) If the lender does not respond to the notice of termination, within one hundred twenty days following receipt thereof, the museum shall send a second notice to the lender containing the following information: "On (date of first notice), the (name of museum) sent you a notice concerning property that, according to our records, has been lent to the (name of museum). 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."

(d) If the lender fails to respond to the second notice within one hundred twenty days of receipt thereof, the museum shall acquire all of the lender's rights to the property.

(e) If the museum does not receive proof that the notices mailed pursuant to this subdivision were received within thirty days of mailing, or if the museum has undertaken a good faith and reasonable search of museum records and other records reasonably available to museum staff but has been unable to determine the identity and last known address of the lender, the museum may terminate the loan by complying with the procedures established in subdivision eight of this section for acquisition of title to undocumented property.

8. (a) Notwithstanding any other provision of law regarding abandoned or lost property, a museum may acquire the rights of the lender, donor, or owner to undocumented property by giving notice by publication, in accordance with subdivision six of this section, that it is asserting title to the undocumented property.

(b) Such notice shall be entitled "Notice of Intent to Acquire Property" and must include a statement containing substantially the following information: "The (name of museum) hereby asserts its intent to acquire title to the following property: (brief description of property). If you claim ownership of this property, you must contact the

museum in writing 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 wish to commence legal proceedings to claim the property, you should consult an attorney."

(c) If the museum does not receive contact from any person who can provide documentation or other evidence establishing an ownership interest in the property within one hundred eighty days of the date of notice by publication, the museum shall cause a brief description of the property to be submitted to the comptroller, who shall post such description on the unclaimed funds registry for not less than one hundred eighty days.

(d) If the museum does not receive contact from any person who can provide documentation or other evidence establishing an ownership interest in the property prior to or within thirty days following the conclusion of the unclaimed funds registry posting, the museum shall acquire title to the property.

9. The provisions of subdivisions seven and eight of this section shall not apply to:

(a) any property that was created before nineteen hundred forty-five and changed hands due to theft, seizure, confiscation, forced sale, or other involuntary means in Europe during the Nazi era (1933-1945); or

(b) notwithstanding any copy of a notice sent pursuant to subdivision six of this section, any property reported as stolen to a law enforcement agency or insurer or The Art Loss Register or any successor organization having similar purposes no later than three years following the theft or discovery of the theft.

10. A museum shall acquire all rights to undocumented property that is not solicited by the museum and that is delivered to the museum or left on museum premises after January first, two thousand nine if no person provides documentation or other evidence establishing an ownership interest in the property within ninety days of delivery of such property to the museum.

11.(a) The museum shall give a lender prompt written notice by mail,

in accordance with subdivision six of this section, 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 or her 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.

(b) 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 address or telephone number before the time by which the museum determines action is necessary; or

(ii) the lender either (1) does not respond to a request for permission to apply conservation measures within three days of receiving the request or will not agree to the conservation measures the museum recommends; or (2) 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.

(c) Unless provided otherwise in an agreement with the lender, if a museum applies conservation measures to property under paragraph (a) of this subdivision, and provided that the measures were not required as a result of such museum's own action or inaction, such museum shall acquire a lien on the property in the amount of the costs incurred by such 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 such museum:

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

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

12. A lender shall promptly notify a museum, in writing, of any change of address or change in the ownership of property on loan to such museum.

13. The museum shall maintain or continue to maintain, as the case may be and to the extent such information is reasonably 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, which records shall be updated if a lender informs the museum of a change in address, ownership of the property or other relevant information, or if the lender and museum negotiate a change in the terms 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; and

(c) in the case of property acquired pursuant to this section, include records documenting the search for the identity and last known address of the lender, and copies of all notices and other documents prepared or received by the museum in connection with the acquisition of title to such property.

14. Nothing in this section shall limit the ability of a lender and

museum to bind themselves to different loan provisions by written agreement, nor shall this section abrogate rights and obligations of a lender or museum pursuant to a written agreement.

15. Every museum which has on display any identifiable works of art known to have been created before nineteen hundred forty-five and which changed hands due to theft, seizure, confiscation, forced sale or other involuntary means in Europe during the Nazi era (nineteen hundred thirty-three--nineteen hundred forty-five) shall, to the extent practicable, prominently place a placard or other signage acknowledging such information along with such display.