

# HOUSE BILL No. 1368

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 32-34-5.

**Synopsis:** Property on loan to museums. Repeals the definition of "permanent loan" of property to a museum. Defines "unclaimed property" as property for which the museum knows the lender's name and last known address and the museum: (1) has not been contacted by the lender about the loan for a specified period; or (2) cannot determine whether the property was intended as a gift or a loan. Provides that a museum gives proper notice for purposes of asserting title to unclaimed property if the museum receives timely proof of receipt of the notice to the lender's last known address, regardless of whether the lender actually resides at the address. Defines "undocumented property" as property for which the lender's name or the lender's last known address is unknown and the property: (1) was on loan to the museum; or (2) the museum cannot determine whether the property was a gift or a loan. (Current law defines "undocumented property" as property for which the museum cannot determine the owner.) Requires a person to give written notice of intent to retain an interest in undocumented property within one year (instead of three years) after the museum publishes notice that it is asserting title to the property. Allows a museum's published notice regarding numerous items of undocumented property to make a general reference to the categories of property and the number of items within each category (instead of providing a general description of each item of property). Provides that if a museum cannot determine: (1) the owner's name and the owner's address; and (2) whether property is a gift or on loan; the property is conclusively presumed to be a gift if ownership of the property is not claimed within 90 days after the date of discovery. (Current law requires the property to be from an unknown source and that the property might reasonably be assumed to be intended as a gift.)

**Effective:** July 1, 2014.

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**Cox**

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January 15, 2014, read first time and referred to Committee on Judiciary.

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Second Regular Session 118th General Assembly (2014)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

# HOUSE BILL No. 1368

A BILL FOR AN ACT to amend the Indiana Code concerning property.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 32-34-5-5 IS REPEALED [EFFECTIVE JULY 1,
- 2 2014]. ~~Sec. 5: As used in this chapter, "permanent loan" means a loan~~
- 3 ~~of property to a museum for an indefinite period.~~
- 4 SECTION 2. IC 32-34-5-7.5 IS ADDED TO THE INDIANA CODE
- 5 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 6 1, 2014]: **Sec. 7.5. As used in this chapter, "unclaimed property"**
- 7 **means property:**
- 8 **(1) for which the lender's name and last known address are**
- 9 **known to the museum; and**
- 10 **(2) that is described by one (1) of the following:**
- 11 **(A) The property was on loan to a museum for an**
- 12 **indefinite or undetermined period and the lender or a**
- 13 **person acting legitimately on the lender's behalf has not**
- 14 **contacted the museum regarding the property for at least**
- 15 **thirty (30) years after the beginning date of the loan.**
- 16 **(B) The property was on loan to a museum for a definite**



1           **period that has expired and the lender or a person acting**  
 2           **legitimately on the lender's behalf has not contacted the**  
 3           **museum regarding the property for at least seven (7) years**  
 4           **after the date the loan expires.**

5           **(C) The museum cannot determine whether the property**  
 6           **was intended to be:**

7                 **(i) a gift to the museum; or**

8                 **(ii) on loan to the museum.**

9           SECTION 3. IC 32-34-5-8 IS AMENDED TO READ AS  
 10          FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 8. As used in this  
 11          chapter, "undocumented property" means property in the possession of  
 12          a museum:

13                 **(1) for which the museum cannot determine the owner by**  
 14                 **reference to the museum's records:**

15                         **(A) the name of the lender; or**

16                         **(B) the last known address of the lender.**

17                 **(2) that is described by one (1) of the following:**

18                         **(A) The property was on loan to the museum for a definite**  
 19                         **period that has expired.**

20                         **(B) The property was on loan to the museum for a**  
 21                         **indefinite or undetermined period.**

22                         **(C) The museum cannot determine whether the property**  
 23                         **was intended to be:**

24                                 **(i) a gift to the museum; or**

25                                 **(ii) on loan to the museum.**

26          SECTION 4. IC 32-34-5-9 IS AMENDED TO READ AS  
 27          FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 9. A notice given by a  
 28          museum under this chapter **for unclaimed property** must be mailed  
 29          to the lender's last known address by certified mail. Proper notice is  
 30          given if the museum receives proof of receipt of the notice not more  
 31          than thirty (30) days after the notice was mailed, **regardless of**  
 32          **whether the owner actually resides at the last known address.**

33          SECTION 5. IC 32-34-5-10 IS AMENDED TO READ AS  
 34          FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 10. (a) **If a museum is**  
 35          **seeking to assert title to undocumented property, the museum** may  
 36          give notice by publication under **section 13** of this chapter. **if the**  
 37          **museum does not:**

38                         **(1) know the identity of the lender;**

39                         **(2) have an address last known for the lender; or**

40                         **(3) receive proof of receipt of the notice by the person to whom**  
 41                         **the notice was sent within thirty (30) days after the notice was**  
 42                         **mailed.**



1 (b) Notice by publication under subsection (a) must be given at least  
 2 once a week for two (2) consecutive weeks in a newspaper of general  
 3 circulation in:

- 4 (1) the county in which the museum is located; and  
 5 (2) the county of the lender's last known address, if the ~~identity of~~  
 6 **last known address of** the lender is known.

7 SECTION 6. IC 32-34-5-11 IS AMENDED TO READ AS  
 8 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 11. In addition to any  
 9 other information that may be required or seem appropriate, a notice  
 10 given by a museum **for unclaimed property** under **section 9** of this  
 11 chapter must contain the following:

12 **(1) The statement set forth in section 12(2) of this chapter.**

13 **(2) The following information:**

- 14 (1) ~~(A)~~ **(A)** The name of the lender. ~~if known.~~  
 15 (2) ~~(B)~~ **(B)** The last known address of the lender.  
 16 (3) ~~(C)~~ **(C)** A brief description of the property on loan.  
 17 (4) ~~(D)~~ **(D)** The date of the loan. ~~if known.~~  
 18 (5) ~~(E)~~ **(E)** The name of the museum.  
 19 (6) ~~(F)~~ **(F)** The name, address, and telephone number of the  
 20 person or office to be contacted regarding the property.

21 SECTION 7. IC 32-34-5-12 IS AMENDED TO READ AS  
 22 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 12. A museum may  
 23 acquire title in the following manner to **unclaimed** property: ~~that is on~~  
 24 ~~permanent loan to the museum or that was loaned for a specified term~~  
 25 ~~that has expired:~~

26 (1) The museum must give notice **by certified mail under**  
 27 **section 9 of this chapter** that the museum is terminating the loan  
 28 of the property.

29 (2) The notice that the loan of the property is terminated must  
 30 include a statement containing substantially the following  
 31 information:

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

39 (3) If the lender does not respond to the notice of termination  
 40 within one (1) year after receipt of the notice by filing a notice of  
 41 intent to preserve an interest in the property on loan, clear and  
 42 unrestricted title is transferred to the museum three hundred



1 sixty-five (365) days after the notice was received.

2 SECTION 8. IC 32-34-5-13 IS AMENDED TO READ AS  
3 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 13. **(a)** A museum may  
4 acquire title to undocumented property held by the museum for at least  
5 seven (7) years as follows:

6 (1) The museum must give notice **by publication under section**  
7 **10 of this chapter** that the museum is asserting title to the  
8 undocumented property.

9 (2) The notice that the museum is asserting title to the property  
10 must include a statement containing substantially the following  
11 information:

12 "The records of (name of museum) fail to indicate the owner  
13 of record of certain property in its possession **or fail to**  
14 **indicate the owner's last known address.** The museum  
15 hereby asserts title to the following property: **(insert a general**  
16 **description of the property or, if the notice covers numerous**  
17 **items of property, a general reference under subsection (b)**  
18 **that incorporates the items by reference).** If you claim  
19 ownership or other legal interest in this property, you must  
20 contact the museum, establish ownership of the property, and  
21 make arrangements to collect the property. If you fail to do so  
22 within ~~three (3) years~~, **one (1) year**, you will be considered to  
23 have waived any claim you may have had to the property."

24 (3) If a lender does not respond to the notice within ~~three (3) years~~  
25 **one (1) year** by giving a written notice of intent to retain an  
26 interest in the property on loan, the museum's title to the property  
27 becomes absolute.

28 **(b) If a museum is asserting title to numerous items of**  
29 **undocumented property, the requirements of subsection (a)(2) are**  
30 **satisfied if the statement incorporates the items of property by**  
31 **reference by making a general reference to:**

32 **(1) the categories of property; and**

33 **(2) the number of items of property within each category.**

34 SECTION 9. IC 32-34-5-16 IS AMENDED TO READ AS  
35 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 16. Property that ~~(+)~~  
36 is found in or on property controlled by the museum

37 ~~(2) is from an unknown source; and (3) might reasonably be assumed~~  
38 ~~to have been intended as a gift to the museum;~~ is conclusively  
39 presumed to be a gift to the museum if:

40 **(1) the museum cannot determine:**

41 **(A) whether the property was intended to be:**

42 **(i) a gift to the museum; or**



1                   (ii) on loan to the museum; and  
2                   (B) the name and last known address of the lender; and  
3           (2) the ownership of the property is not claimed by a person or  
4           individual within ninety (90) days after ~~its~~ the discovery of the  
5           property.

