



**CIVIL CODE - CIV**

**DIVISION 3. OBLIGATIONS [1427 - 3272.9]**

*( Heading of Division 3 amended by Stats. 1988, Ch. 160, Sec. 14. )*

**PART 4. OBLIGATIONS ARISING FROM PARTICULAR TRANSACTIONS [1738 - 3273]**

*( Part 4 enacted 1872. )*

**TITLE 4. LOAN [1884 - 1923.10]**

*( Title 4 enacted 1872. )*

**CHAPTER 1.5. Loans to Museums for Indefinite or Long Terms [1899 - 1899.11]**

*( Chapter 1.5 added by Stats. 1983, Ch. 61, Sec. 1. )*

**1899.** The Legislature finds and declares as follows:

(a) Many museums have benefited greatly from having property loaned to them for study or display. Problems have arisen, however, in connection with loans for indefinite or long terms, when museums and lenders have failed to maintain contact. Many of these problems could be avoided by a clarification and regularization of the rights and obligations of the parties to loans for indefinite or long terms.

(b) An existing law, the Unclaimed Property Law (commencing with Section 1500 of the Code of Civil Procedure), is technically applicable to property on loan to a museum which has been left unclaimed by its owner for at least seven years.

(c) While the Unclaimed Property Law addresses problems similar to those which arise in the museum context when the parties to loans fail to maintain contact, there is need for an alternative method of dealing with unclaimed property in the hands of museums, one tailored to the unique circumstances of unclaimed loans to museums. These circumstances include the likelihood that the unclaimed property has significant scientific, historical, aesthetic, or cultural value but does not have great monetary value; that the public's interest in the intangible values of unclaimed property loaned to museums can best be realized if title is transferred to the museums holding the property; that often lenders intend eventually to donate property but place it on indefinite or long term loan initially for tax and other reasons; and that many museums have incurred unreimbursed expenses in caring for and storing unclaimed loaned property.

(d) There is an inherent tendency for the condition of tangible property to change over time. Loaned property often requires conservation work and conservation measures may be expensive or potentially detrimental to the property. Organic materials and specimens may serve as breeding grounds for insects, fungi, or diseases which threaten other more valuable property.

(e) Museums cannot reasonably be expected to make decisions regarding conservation or disposition of loaned property at their own risk and expense. Over time, however, lenders die or move, and museums and lenders lose contact. If a lender has failed to maintain contact with a museum, it is often impossible to locate the lender so that the lender can make decisions regarding conservation or disposition of loaned property.



(f) Since museums rarely relocate, it is easier for lenders, and those who claim through them, to notify museums of address or ownership changes so that museums can readily contact lenders when decisions must be made regarding conservation or disposition of loaned property.

(g) The best evidence of ownership of property on loan to a museum is generally the original loan receipt. The longer property remains on loan, the less likely it is that the original lender will claim it, and the more likely it is that any claim which is made will be made by someone who does not have the original loan receipt or other clear evidence of ownership. The state has a substantial interest in cutting off stale and uncertain claims to tangible personal property loaned to nonprofit and public museums.

(h) Most of the tangible personal property which escheats to the state under the Unclaimed Property Law is found in safe deposit boxes. Although 40–50 percent of the intangible property which escheats to the state is subsequently claimed, less than 1 percent of escheated tangible personal property is claimed. Of the few claims which are presented to the Controller for tangible personal property, most are presented within two years of the date the Controller gives notice of the escheat.

(i) The public interest is served by requiring lenders to notify museums of changes in address or ownership of loaned property, by establishing a uniform procedure for lenders to preserve their interests in property loaned to museums for indefinite or long terms, and by vesting title to unclaimed property on loan to museums in the museums which have custody of the property.

*(Added by Stats. 1983, Ch. 61, Sec. 1.)*

**1899.1.** For the purposes of this chapter:

(a) A "museum" is an institution located in California and operated by a nonprofit corporation or public agency, primarily educational, scientific, or aesthetic in purpose, which owns, borrows, or cares for, and studies, archives, or exhibits property.

(b) A "lender's address" is the most recent address as shown on the museum's records pertaining to the property on loan from the lender.

(c) The terms "loan," "loaned," and "on loan" include all deposits of property with a museum which are not accompanied by a transfer of title to the property.

(d) "Property" includes all tangible objects, animate and inanimate, under a museum's care which have intrinsic value to science, history, art, or culture, except that it does not include botanical or zoological specimens loaned to a museum for scientific research purposes.

*(Added by Stats. 1983, Ch. 61, Sec. 1.)*

**1899.2.**

(a) When a museum is required to give a lender notice pursuant to the provisions of this chapter, the museum shall be deemed to have given a lender notice if the museum mails the notice to the lender at the lender's address and proof of receipt



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is received by the museum within 30 days from the date the notice was mailed. If the museum does not have an address for the lender, or if proof of receipt is not received by the museum, notice shall be deemed given if the museum publishes notice at least once a week for three successive weeks in a newspaper of general circulation in both the county in which the museum is located and the county of the lender's address, if any.

(b) In addition to any other information prescribed in this chapter, notices given pursuant to it shall contain the lender's name, the lender's address, if known, the date of the loan and, if the notice is being given by the museum, the name, address, and telephone number of the appropriate office or official to be contacted at the museum for information regarding the loan.

(c) For the purposes of this section, a museum is "located" in the county of a branch of the museum to which a loan is made. In all other instances, a museum is located in the county in which it has its principal place of business.

*(Added by Stats. 1983, Ch. 61, Sec. 1.)*

### 1899.3.

(a) If, on or after January 1, 1984, a museum accepts a loan of property for an indefinite term, or for a term in excess of seven years, the museum shall inform the lender in writing at the time of the loan of the provisions of this chapter. A copy of the form notice prescribed in Section 1899.5, or a citation to this chapter, is adequate for this purpose.

(b) Unless the loaned property is returned to the claimant, the museum shall retain for a period of not less than 25 years the original or an accurate copy of each notice filed by a claimant pursuant to Section 1899.4.

(c) The museum shall furnish anyone who files a notice of intent to preserve an interest in property on loan proof of receipt of the notice by mailing an original receipt or a copy of the receipt portion of the form notice prescribed in Section 1899.5 to the lender or other claimant at the address given on the notice within 30 days of receiving the notice.

(d) A museum shall give a lender prompt notice of any known injury to or loss of property on loan.

*(Added by Stats. 1983, Ch. 61, Sec. 1.)*

### 1899.4.

(a) It is the responsibility of the owner of property on loan to a museum to notify the museum promptly in writing of any change of address or change in ownership of the property. Failure to notify the museum of these changes may result in the owner's loss of rights in the property.

(b) The owner of property on loan to a museum may file with the museum a notice of intent to preserve an interest in the property as provided for in Section 1899.5. The filing of a notice of intent to preserve an interest in property on loan to a museum does not validate or make enforceable any claim which would be



extinguished under the terms of a written loan agreement, or which would otherwise be invalid or unenforceable.

*(Added by Stats. 1983, Ch. 61, Sec. 1.)*

**1899.5.**

(a) A notice of intent to preserve an interest in property on loan to a museum filed pursuant to this chapter shall be in writing, shall contain a description of the property adequate to enable the museum to identify the property, shall be accompanied by documentation sufficient to establish the claimant as owner of the property, and shall be signed under penalty of perjury by the claimant or by a person authorized to act on behalf of the claimant.

(b) The museum need not retain a notice which does not meet the requirements set forth in subdivision (a). If, however, the museum does not intend to retain a notice for this reason, the museum shall promptly notify the claimant at the address given on the notice that it believes the notice is ineffective to preserve an interest, and the reasons therefor. The fact that the museum retains a notice shall not be construed to mean that the museum accepts the sufficiency or accuracy of the notice or that the notice is effective to preserve an interest in property on loan to the museum.

(c) A notice of intent to preserve an interest in property on loan to a museum which is in substantially the following form, and contains the information and attachments described, satisfies the requirements of subdivision (a):

NOTICE OF INTENT TO PRESERVE AN INTEREST IN PROPERTY ON LOAN TO A MUSEUM

TO THE LENDER: Section 1899.4 of the California Civil Code requires that you notify the museum promptly in writing of any change of address or ownership of the property. If the museum is unable to contact you regarding your loan, you may lose rights in the loaned property. If you choose to file this form with the museum to preserve your interest in the property, the museum is required to maintain it, or a copy of it, for 25 years. For full details, see Section 1899, et seq. of the California Civil Code.

TO THE MUSEUM: You are hereby notified that the undersigned claims an interest in the property described herein.

Claimant

|          |
|----------|
| Name:    |
| Address: |
|          |
|          |



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|                                                                                                                                                                                                                                                                                                                             |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Telephone:                                                                                                                                                                                                                                                                                                                  |
| Social Security Number (optional):                                                                                                                                                                                                                                                                                          |
| Museum Name:                                                                                                                                                                                                                                                                                                                |
| Date Property Loaned:                                                                                                                                                                                                                                                                                                       |
| Interest in Property:                                                                                                                                                                                                                                                                                                       |
| If you are not the original lender, describe the origin of your interest in the property and attach a copy of any document creating your interest:                                                                                                                                                                          |
|                                                                                                                                                                                                                                                                                                                             |
| Description of Property:                                                                                                                                                                                                                                                                                                    |
| Unless an accurate, legible copy of the original loan receipt is attached, give a detailed description of the claimed property, including its nature and general characteristics and the museum registration number assigned to the property, if known, and attach any documentary evidence you have establishing the loan: |
| Registration #                                                                                                                                                                                                                                                                                                              |
| Description:                                                                                                                                                                                                                                                                                                                |
| (Attach additional sheets if necessary.)                                                                                                                                                                                                                                                                                    |
| I understand that I must promptly notify the museum in writing of any change of address or change in ownership of the loaned property.                                                                                                                                                                                      |
| I declare under penalty of perjury that to the best of my knowledge the information contained in this notice is true.                                                                                                                                                                                                       |
| Signed: _____ Date:                                                                                                                                                                                                                                                                                                         |
| (claimant) _____                                                                                                                                                                                                                                                                                                            |
| OR                                                                                                                                                                                                                                                                                                                          |
| I declare under penalty of perjury that I am authorized to act on behalf of the claimant and am informed and believe that the information contained in this notice is true.                                                                                                                                                 |
| Signed: _____ Date:                                                                                                                                                                                                                                                                                                         |
| (claimant's representative) _____                                                                                                                                                                                                                                                                                           |
|                                                                                                                                                                                                                                                                                                                             |



RECEIPT FOR NOTICE OF INTENT  
TO PRESERVE AN INTEREST IN PROPERTY  
(For use by the museum.)

Notice received by:

Date of receipt:

Copy of receipt returned to claimant:

By

Date:

(d) Notices of intent to preserve an interest in property on loan to a museum filed pursuant to this chapter are exempt from the disclosure requirements of the California Public Records Act (commencing with Section 6250 of the Government Code).

*(Added by Stats. 1983, Ch. 61, Sec. 1.)*

**1899.6.**

(a) Unless there is a written loan agreement to the contrary, a museum may apply conservation measures to or dispose of property on loan to the museum without a lender's permission if:

(1) Immediate action is required to protect the property on loan or to protect other property in the custody of the museum, or because the property on loan has become a hazard to the health and safety of the public or of the museum's staff, and:

(A) The museum is unable to reach the lender at the lender's last address of record so that the museum and the lender can promptly agree upon a solution; or

(B) The lender will not agree to the protective measures the museum recommends, yet is unwilling or unable to terminate the loan and retrieve the property.

(2) In the case of a lender who cannot be contacted in person, the museum publishes a notice containing the information described in subdivision (a) of Section 1899.7 and there is no response for 120 days.

(b) If a museum applies conservation measures to or disposes of property pursuant to subdivision (a):

(1) The museum shall have a lien on the property and on the proceeds from any disposition thereof for the costs incurred by the museum; and

(2) The museum shall not be liable for injury to or loss of the property:

(A) If the museum 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 constituted a hazard to the health and safety of the public or the museum's staff; and

(B) If the museum applied conservation measures, the museum exercised reasonable care in the choice and application of the conservation measures.

*(Added by Stats. 1983, Ch. 61, Sec. 1.)*



1899.7.

(a) Except as provided in subdivision (b), if a museum is unable to give the lender the notice required by subdivision (d) of Section 1899.3 of injury to or loss of property on loan by mail, the museum shall be deemed to have given the lender notice of any injury or loss if in addition to the information required by subdivision (b) of Section 1899.2 the published notice includes a statement containing substantially the following information:

"The records of \_\_\_\_\_ (name of museum) \_\_\_\_\_ indicate that you have property on loan to it. Your failure to notify it in writing of a change of address or ownership of property on loan or to contact it in writing regarding the loan may result in the loss of rights in the loaned property. See California Civil Code Sections 1899, et seq."

(b) If, within three years of giving notice of injury to or loss of loaned property by publishing the notice set forth in subdivision (a), the museum receives a notice from a claimant pursuant to Section 1899.4, the museum shall promptly advise the claimant in writing of the nature of the injury to or the fact of the loss of property on loan and the approximate date thereof. For the purposes of the limitation period in Section 1899.8, if the museum mails the information to the claimant within 30 days of the date the museum receives the notice from the claimant, the museum shall be deemed to have given the claimant notice of the injury to or loss of property on loan on the date notice by publication pursuant to subdivision (a) was completed.

*(Added by Stats. 1983, Ch. 61, Sec. 1.)*

1899.8.

Effective January 1, 1985, no action shall be brought against a museum for damages because of injury to or loss of property loaned to the museum more than (1) three years from the date the museum gives the lender notice of the injury or loss, or (2) ten years from the date of the injury or loss, whichever occurs earlier.

*(Added by Stats. 1983, Ch. 61, Sec. 1.)*

1899.9.

(a) A museum may give the lender notice of the museum's intent to terminate a loan which was made for an indefinite term, or which was made on or after January 1, 1984, for a term in excess of seven years.

A notice of intent to terminate a loan given pursuant to this section shall include a statement containing substantially the following information:

"The records of \_\_\_\_\_ (name of museum) \_\_\_\_\_ indicate that you have property on loan to it. The institution wishes to terminate the loan. You must contact the institution, establish your ownership of the property, and make arrangements to collect the property. If you fail to do so promptly, you will be



deemed to have donated the property to the institution. See California Civil Code Sections 1899, et seq.”

(b) For the purposes of this chapter, a loan for a specified term becomes a loan for an indefinite term if the property remains in the custody of the museum when the specified term expires.

*(Added by Stats. 1983, Ch. 61, Sec. 1.)*

#### 1899.10.

(a) The three-year limitation on actions to recover personal property prescribed in Code of Civil Procedure Section 338.3 shall run from the date the museum gives the lender notice of its intent to terminate the loan pursuant to Section 1899.9.

(b) Except as provided in subdivision (e), effective January 1, 1985, no action shall be brought against a museum to recover property on loan when more than 25 years have passed from the date of the last written contact between the lender and the museum, as evidenced in the museum’s records.

(c) A lender shall be deemed to have donated loaned property to a museum if the lender fails to file an action to recover the property on loan to the museum within the periods specified in subdivisions (a) and (b).

(d) One who purchases property from a museum acquires good title to the property if the museum represents that it has acquired title to the property pursuant to subdivision (c).

(e) Notwithstanding subdivisions (b) and (c), a lender who was not given notice that the museum intended to terminate a loan and who proves that the museum received a notice of intent to preserve an interest in loaned property within the 25 years immediately preceding the date on which the lender’s right to recover the property otherwise expired under subdivision (b) may recover the property or, if the property has been disposed of, the reasonable value of the property at the time the property was disposed of with interest at the rate on judgments set by the Legislature pursuant to Section 1 of Article XV of the California Constitution.

*(Amended by Stats. 1984, Ch. 541, Sec. 1. Effective July 17, 1984.)*

#### 1899.11.

(a) The provisions of this chapter supersede the provisions of the Unclaimed Property Law (commencing with Section 1500 of the Code of Civil Procedure) except that at its option, a museum may report property which has been on loan unclaimed by its owner for more than seven years to the Controller pursuant to Section 1530 of the Code of Civil Procedure for disposition in accordance with the provisions of the Unclaimed Property Law.

(b) Not less than six months or more than 12 months before reporting any loaned property to the Controller, a museum shall mail to the lender at the lender’s address, if known, a notice of intent to report the property to the Controller. The notice shall include a statement containing substantially the following information:





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"The records of \_\_\_\_\_ (name of museum) \_\_\_\_\_ indicate that you have property on loan to the institution. The institution wishes to terminate the loan. You must contact the institution, establish your ownership of the property and make arrangements to collect the property before (fill in date) or the property will be disposed of in accordance with the provisions of the Unclaimed Property Law (commencing with Section 1500 of the Code of Civil Procedure)."

*(Added by Stats. 1983, Ch. 61, Sec. 1.)*