

CHAPTER 171

UNCLAIMED PROPERTY

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SUBCHAPTER I

PROPERTY IN POSSESSION OF A
CONSIGNEE OR BAILEE

171.01 Duty of consignee or bailee. Whenever any personal property shall be consigned to or deposited with any common carrier, forwarding merchant, wharfinger, warehouse keeper, innkeeper or the keeper of any depot for the storage of baggage, merchandise or other personal property, such consignee or bailee shall immediately cause to be entered in a proper book kept by the consignee or bailee a description of such property with the date of the reception thereof; and if the same shall not have been so consigned or deposited for the purpose of being forwarded or disposed of according to directions received by such consignee or bailee at or before his or her reception thereof the consignee or bailee shall immediately notify the owner by mail thereof, if the owner's name and residence be known or can with reasonable diligence be ascertained.

History: 1983 a. 500 s. 43; 1993 a. 482.

171.03 Officers' fees. The fees allowed under this subchapter to any sheriff or constable are the same fees allowed by law to a sheriff for sales upon execution.

History: 1993 a. 18.

171.04 Perishable property, held for carriage or storage, how disposed of. (1) If any property delivered to any forwarding merchant, wharfinger or warehouse keeper, for carriage or storage, is in a state of decay or manifestly liable to immediate damage and decay, the person in whose custody the property is, the person's agent or attorney, may make an affidavit of this fact, and present the affidavit to a circuit judge or court commissioner for the county in which the property is located, and the circuit judge or court commissioner shall immediately make an order requiring the sheriff or any constable of the county to immediately inspect the property, and directing him or her, if it is found to be in a state of decay or manifestly liable to immediate damage or decay, to summarily sell the property without notice.

(2) If the sheriff or constable, upon inspection, finds the property to be in a state of decay, or manifestly liable to immediate damage or decay, the sheriff or constable shall attach to the order his or her affidavit stating such fact, and shall make an inventory of the property, and shall summarily sell the property without notice, and shall make full return of the sheriff's or constable's execution of the order to the judge or commissioner who issued the same, together with the sheriff's or constable's affidavit, inventory and the proceeds of said sale, after deducting the sheriff's or constable's fees therefrom.

(3) From the proceeds of such sale, the judge or commissioner shall pay all legal charges that have been incurred in relation to the property, or a ratable proportion of each charge if the proceeds of the sale are not sufficient to pay all the charges; and the balance,

if any, the judge or commissioner shall immediately pay over to the treasurer of the judge's or commissioner's county, with a copy of all the proceedings in the matter. The county treasurer shall file the copy in his or her office.

(4) The person in whose custody such property shall be when any such proceeding for the sale thereof shall be commenced, shall immediately notify the consignor and consignee of such sale, which notice shall be in writing, and shall be served by leaving a copy thereof with the consignor and consignee, personally or by mail.

History: 1977 c. 449; 1993 a. 482.

171.05 Perishable property, held otherwise, how disposed of. If any property is perishable or subject to decay by keeping, the person in whose custody the property is, the person's agent or attorney, may make an affidavit of this fact and present the affidavit to a circuit judge or court commissioner for the county in which the property is located, and the judge or court commissioner shall immediately make an order requiring the sheriff or any constable of the county to immediately inspect the property, and if it is found to be perishable or subject to decay by keeping, to make and return an affidavit of this fact. Upon the return of this affidavit, the judge or commissioner making the order shall immediately issue an order requiring the sheriff or constable to sell the property at public auction, giving notice of the time and place of the sale by publication of a class I notice, under ch. 985, and serving upon the consignor, the consignee and the custodian of the property, if they are known, a copy of the notice by mail. The sheriff or constable shall, at the time and place fixed by the notice, unless the property has been otherwise lawfully disposed of, sell the property at public auction, and shall make full return of his or her execution of the order, and return the same with an inventory of the property and the proceeds of the sale, after deducting his or her fees, to the judge or commissioner making the order. From the proceeds of the sale, the judge or commissioner shall pay all legal charges that have been incurred in relation to the property, or a ratable proportion of each charge, if the proceeds of the sale are not sufficient to pay all the charges; and the balance, if any, the judge or court commissioner shall immediately pay over to the treasurer of the county, with a copy of all the proceedings in the matter. The county treasurer shall file the copy in his or her office. The person in whose custody the property is when the proceedings for the sale were commenced, shall immediately notify the consignor and consignee of the sale, in writing which shall be served by leaving a copy with the consignor and consignee personally or by mail.

History: 1977 c. 449.

171.06 Unclaimed property, how disposed of. When any property is not perishable or subject to decay and is not claimed and taken away within one year after it was received, it may be sold as follows: The person in whose custody the property is, or the person's agent or attorney, may make an affidavit of the

facts and present the same to a judge or court commissioner of the county in which the property is located and such judge or court commissioner shall immediately issue an order requiring the sheriff or any constable of the county to sell the property at public auction, giving 60 days' notice of the time and place of the sale to the consignor, the consignee and the custodian of the property. This notice shall be in writing and served personally or by mail upon the persons whose names and residences are known. If the name or residence of any of the persons is unknown and cannot be ascertained with reasonable diligence, the sheriff or constable shall make an affidavit of this fact and shall publish a class 3 notice, under ch. 985, in the county. At the time and place of the sale the sheriff or constable shall sell the property at public auction and shall make a full return of the sheriff's or constable's proceedings under the order to the judge or commissioner issuing the order, together with proof of service or publication of the notice of the sale, and an inventory of the property sold and the proceeds of the sale after deducting the sheriff's or constable's fees. From the proceeds of the sale the judge or commissioner shall pay all legal charges that have been incurred in relation to the property, including the charges of the person in whose custody the property was when the proceedings were begun, or a ratable proportion of each charge if the proceeds of the sale are not sufficient to pay all the charges; and the balance, if any, the judge or commissioner shall immediately pay over to the treasurer of his or her county, with a copy of all proceedings in the matter. The county treasurer shall file the copy in his or her office. The person in whose custody the property is when any proceeding for the sale is commenced, shall immediately notify the consignor and consignee of the sale, in writing, and served by leaving a copy thereof with the consignor and consignee, personally or by mail.

History: 1993 a. 482.

171.065 Disposition of proceeds. If the owner of property sold under this chapter or the owner's legal representatives, at any time within 5 years after proceeds from the sale have been deposited in the county treasury, furnishes satisfactory evidence to the treasurer of the ownership of the property, the owner or the owner's legal representatives shall be entitled to receive the amount of the proceeds deposited with the treasurer. If the owner or the owner's legal representatives do not claim the sale proceeds within the 5-year period, the proceeds shall belong to the county.

History: 1993 a. 482; 1997 a. 254 s. 21; Stats. 1997 s. 171.065.

171.07 Common carriers, lien for transportation.

(1) Any property transported or stored with, or left with any common carrier, including property checked in any check room or parcel locker maintained upon the premises of such carrier, shall be subject to a lien for the lawful charges thereon for the transportation and storage thereof.

(2) (a) If any property not perishable in its nature shall be permitted to remain in the possession of a common carrier, unclaimed or refused, for a period of 60 days, with the lawful charges thereon due and unpaid, such common carrier may proceed to sell the same at public auction at its station at the destination of the shipment, or point of storage or checking of said property, after mailing at least 10 days' notice by United States mail of the amount of the charges to the consignor and consignee, if it be property transported by it, and to the owner if it be property stored or checked by it, if their whereabouts are known, or if their whereabouts be unknown, then as to property transported, to the consignor at the originating point of the shipment and to the consignee at the destination of the shipment, and in addition thereto posting, at its station, in a conspicuous place accessible to the public, for a period of not less than 10 days, a notice of the time and place of the proposed sale. Said notice shall contain a description of the property to be sold, if known, and if not, a description of the package in which it is contained, the amount of charges thereon and the name of the consignee and consignor thereof, or the owner thereof, if known; provided, if there is no satisfactory bid at such auction

sale, the common carrier may remove the property to some other city, village or town of not less than 5,000 inhabitants within the state and there proceed to sell the same at public auction after giving additional notice by mailing and posting as provided in this paragraph.

(b) If any property not perishable in its nature shall be left upon any vehicle or upon the premises of any common carrier, other than by storing or checking the same, said common carrier shall store the same subject to the order of the owner thereof, and, if the same be unclaimed for a period of 60 days, such common carrier may proceed to sell the same at public auction in the manner and upon notice as specified in par. (a).

(3) Fruit, fresh fish, oysters, game and other perishable property after having been retained for 24 hours after notice to consignee, if the consignee be known, may be sold, either at public or private sale in the discretion of the common carrier for the highest price that the same will bring.

(4) After the lawful charges of the common carrier for transportation and storage for the period of compulsory retention shall be deducted from the proceeds of the sale, the overplus, if any, shall be held by the common carrier subject to the order of the owner, and, at any time within 12 months after such sale, upon the demand of the owner, the common carrier shall pay the same to the owner.

History: 1993 a. 246, 482, 491.

171.08 Restored to donors or applied to charity. Whenever, upon the occurrence of a cyclone, conflagration or like calamity, 5 or more persons contribute moneys to a common fund for the relief of the sufferers by such calamity the surplus money, if exceeding \$25 in amount, remaining unexpended for such purpose in the hands of any person authorized to receive and disburse the money after the expiration of 6 months from the date of the calamity shall be disposed of as provided in this section. Within 10 days after the expiration of such 6 months the person having possession of the surplus shall make and cause to be published a complete itemized statement of all moneys paid into the fund, all disbursements therefrom and the amount of the unexpended balance. The publication shall be made as a class 1 notice, under ch. 985, in the town, city or village wherein the calamity occurred. There shall be annexed to and published with such statement a notice, signed by the person having possession of the surplus, to the effect that the person will pay to each of the contributors to such fund a proportional share of the surplus at a place named in the notice, after deducting expenses of publishing the notice, if payment thereof is duly demanded within 60 days from the date of the publication of the notice, and that after the expiration of the period all moneys not so returned to contributors will be donated to one or more charities to be named in the notice. Within 5 days after the expiration of the 60 days the person having the surplus in his or her possession shall deliver it to the charity or one or more of the charities mentioned in the notice, and on delivery of the surplus and the filing of a receipt therefor, with an affidavit of the publication and mailing of the notice and statement, in the office of the clerk of the county in which the calamity occurred, shall not thereafter be liable or accountable therefor to the contributors of the fund, any portion of them or any other person.

History: 1979 c. 110.

SUBCHAPTER II

PROPERTY IN POSSESSION OF A MUSEUM OR ARCHIVES

171.30 Definitions. In this subchapter:

(1) "Archives" means a nonprofit organization or a public agency whose primary functions include selecting, preserving and making available records of historical or enduring value, and

that is open to the public on a regular basis. “Archives” does not include a public library.

(2) “Loan” means the placement of property with a museum or archives that is not accompanied by a transfer of title of the property to the museum or archives and for which there is some record that the owner intended to retain title to the property. “Loan” does not include transfers between museums, between archives or between museums and archives unless the transferring institution specifically provides in writing that the transfer is a loan under this subchapter.

(3) “Museum” means a nonprofit organization or a public agency that is operated primarily for the purpose of collecting, cataloging, preserving or exhibiting property of educational, scientific, historic, cultural or aesthetic interest and that is open to the public on a regular basis. “Museum” does not include a public library.

(4) “Nonprofit organization” has the meaning given in s. 108.02 (19).

(5) “Property” means personal property.

(6) “Public agency” has the meaning given in s. 146.50 (1) (n).

History: 1993 a. 18.

171.31 Loans of property to a museum or archives.

(1) Each museum or archives shall keep accurate records of all property on loan to the museum or archives, including the name and address of the owner, if known, and the beginning and ending date of the loan period. At the time that a person makes a loan to a museum or archives, the museum or archives shall give the owner of the property a copy of this subchapter. If a museum or archives is notified of a change in the ownership of any property loaned to a museum or archives, the museum or archives shall inform the new owner of the provisions of the loan agreement and shall send the new owner a copy of this subchapter. Not less than 90 days before a museum or archives changes its address or dissolves, the museum or archives shall notify all owners of that change of address or dissolution. If a museum or archives becomes the owner of property under s. 171.32 or 171.33, the museum or archives shall maintain any records that the museum or archives has regarding the property for not less than 2 years after the date on which the museum or archives becomes the owner of the property.

(2) The owner of property loaned to a museum or archives shall provide the museum or archives with written notice of any change of the owner’s address, of his or her designated agent, of the designated agent’s address, and of the name and address of the new owner if there is a change in the ownership of the property loaned to the museum or archives.

History: 1993 a. 18.

171.32 Acquiring title to abandoned property.

(1) Property loaned to a museum or archives whose loan has an expiration date is abandoned when there has not been written contact between the owner and the museum or archives for at least 7 years after that expiration date. If the loan has no expiration date, the property is abandoned when there has not been written contact between the owner and the museum or archives for at least 7 years after the museum or archives took possession of the property.

(2) If a museum or archives wishes to acquire title to abandoned property, the museum or archives shall, not less than 60 days after property is abandoned under sub. (1), send a notice by certified mail with return receipt requested to the owner’s last-known address. The notice shall contain all of the following:

(a) A statement that the loan is terminated and that the property is abandoned.

(b) A description of the property.

(c) A statement that the museum or archives will become the owner of the property if the present owner does not submit a written claim to the property to the museum or archives within 60 days after receipt of the notice.

(d) A statement that the museum or archives will make arrangements with the owner to return the property to the owner or dispose of the property as the owner requests if the owner submits a written claim to the property to the museum or archives within 60 days after receipt of the notice.

(e) The notice shall be substantially in the following form:

NOTICE OF ABANDONMENT OF PROPERTY

To: (name of owner)

.... (address of owner)

Please be advised that the loan agreement is terminated for the following property (describe the property in sufficient detail to identify the property):

.....
.....

The above described property that you loaned to (name and address of museum or archives) will be considered abandoned by you and will become the property of (name of museum or archives) if you fail to submit to the museum or archives a written claim to the property within 60 days after receipt of this notice.

If you do submit a written claim to the property within 60 days after receipt of this notice, (name of museum or archives) will arrange to return the property to you or dispose of the property as you request. The cost of returning the property to you or disposing of the property is your responsibility unless you have made other arrangements with the museum or archives.

.....
(name of person to contact at
museum or archives and address
of museum or archives)

(3) If the notice sent by the museum or archives under sub. (2) is returned to the museum or archives undelivered, the museum or archives shall give notice of the abandoned property by publication of a class 2 notice under ch. 985 containing the following:

(a) The name and last-known address of the present owner.

(b) A description of the property.

(c) A statement that the property is abandoned and that the museum or archives will become the owner of the property if no person can prove his or her ownership of the property.

(d) A statement that a person claiming ownership of the property shall notify the museum or archives in writing of that claim within 60 days after publication of the last legal notice.

(e) The name and mailing address of the person who may be contacted at the museum or archives if a person wants to submit a written claim to the property.

(4) (a) If the museum or archives receives a timely written claim for the property from the owner or his or her agent in response to the notice sent under sub. (2) or (3), the museum or archives shall return the property to the owner or dispose of the property as the owner requests. The owner shall advise the museum or archives in writing as to how the property shall be disposed of or returned to the owner. Costs of returning the property or disposing of the property shall be the responsibility of the owner unless the owner and the museum or archives have made other arrangements.

(b) If the museum or archives receives a timely written claim for the property from a person other than the person who loaned the property to the museum or archives in response to the notice sent under sub. (2) or (3), the museum or archives shall, within 60 days after receipt of the written claim, determine if the claim is valid. A claimant shall submit proof of ownership with the claim. If more than one person submits a timely written claim, the museum or archives may delay its determination of ownership until the competing claims are resolved by agreement or legal action. If the museum or archives determines that the claim is valid, or if the competing claims are resolved by agreement or judicial action, the museum or archives shall return the property to the claimant submitting the valid claim or dispose of the prop-

erty as the valid claimant requests. Costs of returning the property or disposing of the property shall be the responsibility of the valid claimant.

(c) If the museum or archives does not receive a timely written claim to the property or if the museum or archives determines that no valid timely claim to the property was submitted, the museum or archives becomes the owner of the property. The museum or archives becomes the owner of the property on the day after the period for submitting a written claim ends or on the day after the museum or archives determines that no valid timely written claim was submitted. The museum or archives owns the property free from all claims.

History: 1993 a. 18.

171.33 Acquiring title to undocumented property.

Property in the possession of a museum or archives which the museum or archives has reason to believe is on loan and for which the museum or archives does not know the owner or have any reasonable means of determining the owner becomes the property of the museum or archives if no person has claimed the property within 7 years after the museum or archives took possession of the property. The museum or archives becomes the owner of the property on the day after the 7-year period ends, free from all claims.

History: 1993 a. 18.