

TEXAS HISTORICAL COMMISSION

Laws of Texas Pertaining to Museums

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TEXAS GOVERNMENT CODE

Chapter 442. Texas Historical Commission

Sec. 442.005. General Powers and Duties of Commission

(a) The commission shall furnish leadership, coordination, and services to county historical commissions, historical societies, and the organizations, agencies, institutions, museums, and individuals of this state interested in the preservation of archeological or historical heritage and shall act as a clearinghouse and information center for that work in this state.

(c) The commission shall furnish professional consultant services to museums and to agencies, individuals, and organizations interested in the preservation and restoration of archeological or historic structures, sites, or landmarks.

(k) The commission may provide matching grants to preserve collections of small history museums in this state if the collections are significant in Texas or American history, architecture, archeology, or culture.

PROPERTY CODE

Title 6a. Property Loaned to Museums

Chapter 80. Ownership, Conservation, and Disposition of Property Loaned to Museum

Sec. 80.001. Purposes

The purposes of this chapter are to establish the ownership of loaned cultural property that has been abandoned by the lender, to establish uniform procedures for the termination of loans of property to museums, to allow museums to conserve loaned property under certain conditions, and to limit actions to recover loaned property.

Sec. 80.002. Definitions

In this chapter:

(1) "Museum" means an institution located in this state and operated by a nonprofit corporation or public agency, primarily educational, scientific, or aesthetic in purpose, that owns, borrows, or cares for and studies, archives, or exhibits property.

(2) "Lender" means a person whose name appears on the records of a museum as the person entitled to property held or owed by the museum.

(3) "Loan," "loaned," and "on loan" include all deposits of property with a museum that are not accompanied by a transfer of title to the property.

(4) "Property" or "cultural property" means all tangible objects, animate and inanimate, under a museum's care that have intrinsic, scientific, historic, artistic, or cultural value.

Sec. 80.003. Notice to Lender

(a) If a museum is required to give a lender notice under this chapter, the museum is considered to have given the lender notice if the museum mails the notice to the lender at the lender's address and proof of receipt is received by the museum within 30 days after the date the notice is mailed.

(b) If the museum does not have an address for the lender or if proof of receipt is not received by the museum, the notice is considered to be given if the museum publishes notice at least once a week for two

consecutive 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 known.

(c) In addition to any other information prescribed by this chapter, notices given under this chapter must contain, if known, the lender's name, the lender's address, the date of the loan, and the name, address, and telephone number of the appropriate office or official to be contacted at the museum for information regarding the loan.

Sec. 80.004. Abandoned Property; Notice; Title to Property

(a) Unless there is a written unexpired loan agreement to the contrary, any property on loan to a museum for 15 years or more and to which no person has made claim according to the records of the museum is considered abandoned and, notwithstanding Chapter 72, becomes the property of the museum if the museum has given the lender notice in accordance with Section 80.003.

(b) If no valid claim has been made to the property within 65 days after the date of the last notice given under Section 80.003, title to the property vests in the museum free from all claims of the owner and all persons claiming through or under the owner.

Sec. 80.005. Intent to Terminate Loan; Form; Transformation of Specified Term to Indefinite Term

(a) A museum may give the lender notice of the museum's intent to terminate a loan that was made for an indefinite term or for a term in excess of seven years. A notice of intent to terminate a loan given under this section must comply with Section 80.003 and must include a statement containing substantially the following information:

The records of (name of museum)

indicate that you have property on loan to it. The museum wishes to terminate the loan. You must contact the museum, establish your ownership of the property, and make arrangements to collect the property. If you fail to do so within 65 days after the date of this notice, you will be deemed to have donated the property to the museum. See Chapter 80, Property Code.

(b) If, within 65 days after the date of the notice given under Subsection (a), the lender fails to contact the museum, establish ownership of the property, and make arrangements to collect the property, the property is considered to be donated to the museum.

(c) 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.

Sec. 80.006. Conservation or Disposal of Loaned Property; Conditions; Lien; Liability of Museum

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

(1) the museum cannot reach the lender at the lender's last address of record so that the museum and the lender can promptly agree on a solution; or

(2) 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.

(b) If a museum applies conservation measures to or disposes of property under Subsection (a), the museum:

(1) has a lien on the property and on the proceeds from any disposition of the property for the costs incurred by the museum; and

(2) is not liable for injury to or loss of the property if the museum:

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

Sec. 80.007. Action to Recover Property; Limitations

(a) The two-year limitation on actions to recover personal property prescribed by Section 16.003, Civil Practice and Remedies Code, runs from the date the museum gives the lender notice of its intent to terminate the loan under Section 80.005.

(b) No action may be brought against a museum to recover property on loan to a museum for 15 years or more and to which no person has made claim if the museum has complied with Section 80.004.

(c) A lender is considered 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 period specified by Subsection (a).

(d) A person who purchases property from a museum acquires valid title to the property if the museum represents that it has acquired title to the property under Subsection (b) or (c).

Sec. 80.008. Notice of Provisions of Chapter; Lender's Notices

(a) If, after August 31, 1987, 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.

(b) The lender of property to a museum shall notify the museum promptly in writing of any changes of address or change in ownership of the property.

LOCAL GOVERNMENT CODE

Subtitle B. County Parks and Other Recreational and Cultural Resources

Chapter 316. County Use Fees

Subchapter B. Miscellaneous Provisions

Sec. 316.021. Museums and Historic Sites in Populous Counties

(a) The commissioners court of a county with a population of 2.2 million or more may charge and collect a fee from the general public for admission to a county-operated museum, historical site, historical building, or other similar building or site.

(b) The commissioners court by order may set the admission fee authorized by this section.

(c) Admission fees charged and collected under this section shall be placed in a county special fund to be used by the commissioners court for the payment of costs associated with the administration, maintenance, security, or staffing necessary to operate the building or site. The special fund may not be expended for purposes other than those associated with the building or site.

Sec. 316.022. Museums and Historic Sites in Certain Counties Operated by Nonprofit Organizations

(a) The commissioners court of a county with a population of 2.2 million or more may enter into a contract with a nonprofit organization authorizing the nonprofit organization to:

(1) manage and operate a museum, historical site, historical building, or similar building or site in the county; and

(2) charge and collect a fee from the general public for admission to the museum, historical site, historical building, or similar building or site if the nonprofit organization is not obligated to the county for capital improvements to the museum, historical site, historical building, or similar building or site.

(b) The commissioners court by order shall set the admission fee authorized by the contract.

(c) The funds generated by the admission fees are not required to be deposited in the county treasury.

(d) The nonprofit organization may spend funds generated by the admission fees for the payment of costs associated with the administration, maintenance, security, or staffing necessary to operate the building or site as approved by the commissioners court and provided by the contract. The funds may not be spent for purposes other than those associated with the building or site.

(e) In this section, "nonprofit organization" means a private, nonprofit, tax-exempt organization described by Section 501(c)(3), Internal Revenue Code of 1986 (26 U.S.C. Section 501(c)(3)), as amended.

Chapter 318. Historic Preservation by Counties

Subchapter A. County Historical Commission

Sec. 318.010. Operation of Museum

(d) The commission may:

(1) operate and manage any museum owned or leased by the county;

(2) acquire artifacts and other museum collections in the name of the museum or the commission; and

(3) supervise any employees hired by the commissioners court to operate the museum.

(e) In operating museums, the commission shall adhere to professional standards in the care, collection, management, and interpretation of artifacts.

Chapter 319. Horticultural and Agricultural Exhibits in Counties

Sec. 319.002. Museums, Buildings, and Improvements

To aid in the exhibition of products listed in Section 319.001, the commissioners court of a county may establish and maintain a museum, building, or other improvement in the county or at any other location in the United States at which a fair or exposition is being held.

Subtitle C. Parks and Other Recreational and Cultural Resources Provisions Applying to More Than One Type of Local Government

Chapter 331. Municipal and County Authority to Acquire and Maintain Parks, Museums and Historic Sites

Sec. 331.001. General Authority

(b) A municipality or county may by gift, devise, purchase, or eminent domain proceeding acquire:

(1) land and buildings to be used for public parks, playgrounds, or historical museums; or

(2) land on which are located:

(A) historic buildings, sites, or landmarks of statewide historical significance associated with historic events or personalities;

(c) Land acquired by a municipality under Subsection (b) may be situated inside or outside the municipality but must be within the county in which the municipality is situated, and land acquired by a county under Subsection (b) must be within the limits of the county. The land may be acquired in any size tract considered suitable by the governing body of the municipality or county.

Sec. 331.002. Acquisition of Historic Objects

A municipality or county may acquire by gift or purchase, individually or in a collection, any historic book, painting, sculpture, coin, or other object or collection of historical significance to the municipality or county.

Sec. 331.003. Eminent Domain

A municipality or county may exercise eminent domain under Section 331.001(b) for the acquisition of a historic site, building, or structure only on a showing that it is necessary to prevent the destruction or deterioration of the site, building, or structure.

Sec. 331.004. Bonds and Taxes

(a) A municipality or county may issue negotiable bonds for the purpose of acquiring or improving land, buildings, or historically significant objects for park purposes or for historic or prehistoric preservation purposes, and may assess, levy, and collect ad valorem taxes to pay the principal of and interest on those bonds and to provide a sinking fund.

Sec. 331.005. Management of Facilities

(b) A historic or prehistoric site, historical museum, or historically significant object acquired under this chapter is under the control and management of the municipality or county that acquired it.

Sec. 331.006. Concessions

(a) The management of any park, historical museum, or historic or prehistoric site acquired under this chapter may sell or lease concessions or privileges for the establishment of amusements, stores, gasoline stations, and other concerns consistent with the operation of a public park and the preservation of noteworthy features of a historic or prehistoric site or historical museum.

(b) The proceeds of the sales and leases may be used only for the improvement and operation of the park, museum, or site. However, the proceeds of the sales or leases in connection with a municipal park may also be used for the support, maintenance, and upkeep of other municipal parks.

Sec. 331.007. Public Use

A park, a playground, a historical museum and its contents, or a historic or prehistoric site acquired and maintained under this chapter shall be open for the use of the public under rules prescribed by the governing body of the park, playground, museum, or site.

Sec. 331.008. Municipal and County Cooperation

(a) A municipality and a county may act in cooperation with each other in the exercise of authority under this chapter. A park, playground, museum, or site acquired jointly by a municipality and county acting in cooperation is under joint management and control.

Chapter 333. Joint Municipal – County Museums

Sec. 333.001. Definitions

In this chapter:

(1) “Board” means the board of managers of a joint municipal and county museum.

(2) “Governing body” means a commissioners court of a county or a governing body of a municipality.

Sec. 333.002. Joint Museum

The governing bodies of a county with a population of 20,000 or less and a municipality that has a population of 10,000 or more and that is located within the county may jointly erect, equip, maintain, and operate a museum.

Sec. 333.003. Finances

The museum may be financed out of the general revenues of the municipality and county in agreed proportions.

Sec. 333.004. Board of Managers

By resolution or other proper action, the governing bodies may delegate to a board of managers full authority to erect, maintain, own, and equip a museum and to own, lease, or sublet realty for the museum.

Sec. 333.009. Personnel

(a) The board may hire a manager of the museum. With the consent of the board, the manager may hire other personnel.

(b) The manager and other personnel are subject to the bylaws and rules adopted by the board.

TAX CODE

Subtitle D. Local Hotel Occupancy Taxes

Chapter 351. Municipal Hotel Occupancy Taxes

Subchapter B. Use and Allocation of Revenue

Sec. 351.101. Use of Tax Revenue

(a) Revenue from the municipal hotel occupancy tax may be used only to promote tourism and the convention and hotel industry, and that use is limited to the following:

(5) historical restoration and preservation projects or activities or advertising and conducting solicitations and promotional programs to encourage tourists and convention delegates to visit preserved historic sites or museums:

(A) at or in the immediate vicinity of convention center facilities or visitor information centers; or

(B) located elsewhere in the municipality or its vicinity that would be frequented by tourists and convention delegates.

ATTORNEY GENERAL OPINIONS

No. JM-1022, Issued 2-27-89

A commissioners court, absent specific statutory language conferring such power, has no authority to impose a special tax whose revenues are to be dedicated to the support of a county historical commission.

No. WW-371, Issued 2-17-58

A county commissioners court may issue time warrants to construct a museum building. The court may maintain the building and its contents. It may also employ personnel necessary for maintenance of the building and operation of the museum. The building may be constructed upon any site within the county considered suitable by the commissioners court.

No. H-1170, Issued 6-2-78

Article 3, section 52 does not bar a county from contracting with a city pursuant to statutory authority to help operate and maintain a museum, park, or recreational area owned by the city.

No. M-680, Issued 9-1-70