

dian tribe, the Secretary, upon the request of the Indian tribe, shall expeditiously return such object to the tribe.

(e) Interpretation

Nothing in this section shall be interpreted as—

(1) limiting the authority of the Smithsonian Institution to return or repatriate Indian human remains or Indian funerary objects to Indian tribes or individuals; or

(2) delaying actions on pending repatriation requests, denying or otherwise affecting access to the courts, or limiting any procedural or substantive rights which may otherwise be secured to Indian tribes or individuals.

(f) Authorization of appropriations

There is authorized to be appropriated \$1,000,000 for fiscal year 1991 and such sums as may be necessary for succeeding fiscal years to carry out this section and section 80q-9a of this title.

(Pub. L. 101-185, §11, Nov. 28, 1989, 103 Stat. 1343; Pub. L. 104-278, §3, Oct. 9, 1996, 110 Stat. 3355.)

Editorial Notes

AMENDMENTS

1996—Subsec. (a). Pub. L. 104-278, §3(a), designated existing provisions as par. (1), added pars. (2) and (3), and redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, of par. (1).

Subsec. (f). Pub. L. 104-278, §3(b), inserted “and section 80q-9a of this title” after “to carry out this section”.

§ 80q-9a. Summary and repatriation of unassociated funerary objects, sacred objects, and cultural patrimony

(a) Summary

Not later than December 31, 1996, the Secretary of the Smithsonian Institution shall provide a written summary that contains a summary of unassociated funerary objects, sacred objects, and objects of cultural patrimony (as those terms are defined in subparagraphs (B), (C), and (D), respectively, of section 3001(3) of title 25, based upon available information held by the Smithsonian Institution. The summary required under this section shall include, at a minimum, the information required under section 3004 of title 25.

(b) Repatriation

Where cultural affiliation of Native American unassociated funerary objects, sacred objects, and objects of cultural patrimony has been established in the summary prepared pursuant to subsection (a), or where a requesting Indian tribe or Native Hawaiian organization can show cultural affiliation by a preponderance of the evidence based upon geographical, kinship, biological, archaeological, anthropological, linguistic, folkloric, oral traditional, historical, or other relevant information or expert opinion, then the Smithsonian Institution shall expeditiously return such unassociated funerary object, sacred object, or object of cultural patrimony where—

(1) the requesting party is the direct lineal descendant of an individual who owned the unassociated funerary object or sacred object;

(2) the requesting Indian tribe or Native Hawaiian organization can show that the object was owned or controlled by the Indian tribe or Native Hawaiian organization; or

(3) the requesting Indian tribe or Native Hawaiian organization can show that the unassociated funerary object or sacred object was owned or controlled by a member thereof, provided that in the case where an unassociated funerary object or sacred object was owned by a member thereof, there are no identifiable lineal descendants of said member or the lineal descendants, upon notice, have failed to make a claim for the object.

(c) Standard of repatriation

If a known lineal descendant or an Indian tribe or Native Hawaiian organization requests the return of Native American unassociated funerary objects, sacred objects, or objects of cultural patrimony pursuant to this subchapter and presents evidence which, if standing alone before the introduction of evidence to the contrary, would support a finding that the Smithsonian Institution did not have the right of possession, then the Smithsonian Institution shall return such objects unless it can overcome such inference and prove that it has a right of possession to the objects.

(d) Museum obligation

Any museum of the Smithsonian Institution which repatriates any item in good faith pursuant to this subchapter shall not be liable for claims by an aggrieved party or for claims of fiduciary duty, public trust, or violations of applicable law that are inconsistent with the provisions of this subchapter.

(e) Statutory construction

Nothing in this section may be construed to prevent the Secretary of the Smithsonian Institution, with respect to any museum of the Smithsonian Institution, from making an inventory or preparing a written summary or carrying out the repatriation of unassociated funerary objects, sacred objects, or objects of cultural patrimony in a manner that exceeds the requirements of this subchapter.

(f) “Native Hawaiian organization” defined

For purposes of this section, the term “Native Hawaiian organization” has the meaning provided that term in section 3001(11) of title 25.

(Pub. L. 101-185, §11A, as added Pub. L. 104-278, §4, Oct. 9, 1996, 110 Stat. 3355.)

§ 80q-10. Special committee to review inventory, identification, and return of Indian human remains and Indian funerary objects

(a) Establishment; duties

Not later than 120 days after November 28, 1989, the Secretary of the Smithsonian Institution shall appoint a special committee to monitor and review the inventory, identification, and return of Indian human remains and Indian funerary objects under section 80q-9 of this title and unassociated funerary objects, sacred objects, and objects of cultural patrimony under section 80q-9a of this title. In carrying out its duties, the committee shall—