

No. 1986-162

AN ACT

HB 491

Providing for the consignment of crafts and works of art; protecting the rights of artists; and providing for civil liability.

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The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Short title.

This act shall be known and may be cited as the Artworks Consignment Act.

Section 2. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Art dealer.” A person engaged in the business of selling crafts and works of fine art, other than a person exclusively engaged in the business of selling goods at public auction.

“Artist.” An individual who is the creator of a craft or work of fine art.

“Bona fide purchaser.” A person who makes a purchase in good faith without notice of any outstanding rights of others with respect to the object of the purchase.

“Commission.” A fee, compensation or percentage of the actual selling price of a craft or work of fine art which has been agreed upon by the artist and an art dealer and to which the art dealer is entitled after completion of the sale of the craft or work of fine art to a third party.

“Consignee.” A person who accepts a craft or work of fine art delivered to the person on consignment.

“Consignor.” A person who delivers, or causes the delivery of, a craft or work of fine art to an art dealer on consignment.

“Craft.” An artistic rendition, created using any medium, including, but not limited to, a collage and other works consisting of any combination of painting, drawing, sculpture, photography and manual creation in clay, textile, fiber, wood, metal, plastic, glass, stone, leather or similar materials.

“Fine art.” An original work of visual or graphic art of recognized quality, created using any medium, including, but not limited to, a painting, drawing or sculpture.

“On consignment.” Delivered into the possession and control of a person in whom title to the delivered object does not vest but who, by agreement with the consignor, is authorized to convey the consignor’s right, title and interest in the object to a third person.

Section 3. Consignment.

When an artist or other person delivers or causes the delivery of a craft or work of fine art to an art dealer, to be sold by the art dealer for a commission, the transfer to and acceptance by the art dealer of the craft or work of fine art shall be considered on consignment.

Section 4. Property and proceeds.

(a) Trust property.—A craft or work of fine art accepted on consignment is trust property being held by the consignee for the benefit of the consignor.

(b) Proceeds.—Any proceeds due the consignor from the sale of a craft or work of fine art on consignment are trust funds held by the consignee for the benefit of the consignor.

Section 5. Sale of works.

A craft or work of fine art initially received on consignment shall remain trust property under section 4, notwithstanding the subsequent purchase of the craft or work of fine art by the consignee, directly or indirectly, for the consignee’s own account, until the terms of the purchase are completed. If the craft or work is resold to a third party who is a bona fide purchaser before the consignor has been paid in full, the work of fine art shall cease to be trust property, and the proceeds of the resale shall be trust funds under section 4 to the extent necessary to pay the balance due the consignor.

Section 6. Property and funds not subject to claims, etc.

Property or funds which are held in trust under section 4 are not subject to the claims, liens or security interest of the creditors of an art dealer.

Section 7. Receipt.

An art dealer shall not accept a craft or work of fine art for a commission on consignment unless, before the time of acceptance, the art dealer conveys to the consignor a written receipt describing the craft or work of fine art delivered to the art dealer and setting out the terms of the consignment agreement.

Section 8. Liability for loss or damage.

An art dealer who accepts a craft or work of fine art on consignment shall be liable in a civil action brought by the consignor for the loss of or damages to the craft or work of fine art.

Section 9. Waiver of rights.

A consignor may not waive his rights under this act unless the waiver is in writing.

Section 10. Application of act.

This act applies to crafts and works of art accepted on consignment on and after the effective date of this act.

Section 11. Effective date.

This act shall take effect in 60 days.

APPROVED—The 11th day of December, A. D. 1986.

DICK THORNBURGH