

AN ACT

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

*Codification
District of
Columbia
Official Code*

2001 Edition

2011 Winter
Supp.

To establish a legal relationship between an artist and art dealer who accepts a work of fine art on consignment, to provide that a work of fine art offered on consignment shall be property held in trust by the art dealer, to exempt a work of fine art held as trust property from the security interest of an art dealer's creditors, and to require a contract before a work of art is accepted by an art dealer on consignment.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Artist Protection Act of 2010".

Sec. 2. Definitions.

For the purposes of this act, the term:

- (1) "Art dealer" means a person engaged in the business of selling works of fine art other than a person exclusively engaged in the business of selling goods at public auction.
- (2) "Artist" means the creator of a work of fine art.
- (3) "On consignment" means delivered to an art dealer for the purpose of sale or exhibition to the public by the art dealer other than at a public auction.
- (4) "Work of fine art" means an original art work which is:
 - (A) A visual rendition, including a painting, drawing, sculpture, mosaic, or photograph;
 - (B) A work of calligraphy;
 - (C) A work of graphic art, including an etching, lithograph, offset print, or silk screen;
 - (D) A craft work in materials, including clay, textile, fiber, wood, metal, plastic, or glass; or
 - (E) A work in mixed media, including a collage or a work consisting of any combination of subparagraphs (A) through (D) of this paragraph.

Sec. 3. Art dealer and artist; relationship.

If an art dealer accepts a work of fine art, on a fee, commission, or other compensation basis, on consignment from the artist who created the work of fine art:

(1) The art dealer shall be, with respect to that work of fine art, the agent of the artist;

(2) A trust shall be created;

(3) The work of fine art shall be trust property and the art dealer shall be a trustee for the benefit of the artist until the work of fine art shall be sold to a bona fide third party; and

(4) The proceeds of the sale of the work of fine art shall be trust property and the art dealer shall be a trustee for the benefit of the artist until the amount due to the artist from the sale is paid.

Sec. 4. Trust property.

(a) If a work of fine art is trust property under section 3 when initially received by the art dealer, it shall remain trust property, notwithstanding the subsequent purchase of the work of fine art by the art dealer, directly or indirectly, for the art dealer's own account until the purchase price is paid in full to the artist.

(b) If the art dealer sells a work of fine art which is trust property under section 3 when initially received by a bona fide third party before the artist has been paid in full, the work of fine art shall cease to be trust property and the proceeds of the sale shall be held in trust by the art dealer for the benefit of the artist to the extent necessary to pay any balance due to the artist. The trust of the proceeds of the sale shall continue until the artist is paid in full.

Sec. 5. Trust property; art dealer's creditors.

Property which is trust property under sections 3 and 4 shall not be subject to the claims, liens, or security interests of the creditors of the art dealer. The provisions of this section shall be given effect over any contrary provision of the Uniform Commercial Code.

Sec. 6. Art dealer required to obtain written contract.

(a) An art dealer may accept a work of fine art on a fee, commission, or other compensation basis, on consignment from the artist who created the work of fine art only if, prior to or at the time of acceptance, the art dealer enters into a written contract with the artist establishing:

(1) The value of the work of fine art;

(2) The time within which the proceeds of the sale are to be paid to the artist if the work of fine art is sold; and

(3) The minimum price for the sale of the work of fine art.

(b) If an art dealer violates this section, the Superior Court of the District of Columbia may, at the request of the artist, void the obligation of the artist to the art dealer or to a person to whom the obligation is transferred, other than a holder in due course.

Sec. 7. Art dealer; duties.

(a) An art dealer who accepts a work of fine art, on a fee, commission, or other compensation basis, on consignment from the artist who created the work of fine art may use or display the work of fine art or a photograph of the work of fine art or permit the use or display of the work of fine art or a photograph of the work of fine art only if:

(1) Notice is given to users or viewers that the work of fine art is the work of the artist; and

(2) The artist gives prior written consent to the particular use or display.

(b) An art dealer who accepts a work of fine art, on a fee, commission, or other compensation basis, on consignment from the artist who created the work of fine art shall compensate the artist for loss or damage to the consigned work of fine art.

Sec. 8. Waiver void.

Any portion of an agreement which waives any provision of this act shall be void.

Sec. 9. Penalty.

An art dealer who violates section 6 or section 7 shall be liable to the artist in an amount equal to the actual damages, if any, including the incidental and consequential damages, sustained by the artist by reason of the violation, plus reasonable attorneys' fees.

Sec. 10. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02 (c)(3)).

Sec. 11. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December

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24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia