

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 491

Session of
1985

INTRODUCED BY HAGARTY, LEVIN, IRVIS, McVERRY, DAWIDA, MICHLOVIC,
GANNON, SHOWERS, FATTAH, GREENWOOD, G. M. SNYDER, SEMMEL,
AFFLERBACH, HERMAN, ARTY, FISCHER, COHEN, LANGTRY,
E. Z. TAYLOR, BUNT, FOX AND PETRARCA, FEBRUARY 26, 1985

AS REPORTED FROM COMMITTEE ON STATE GOVERNMENT, HOUSE OF
REPRESENTATIVES, AS AMENDED, JUNE 3, 1985

AN ACT

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

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

1 Section 1. Short title.

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

4 Section 2. Definitions.

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

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

11 "Artist." An individual who is the creator of a craft or
12 work of fine art.

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

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

21 "Consignee." A person who accepts a craft or work of fine
22 art delivered to the person on consignment.

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

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

30 "Fine art." An original work of visual or graphic art of

1 recognized quality, created using any medium, including, but not
2 limited to, a painting, drawing or sculpture.

3 "On consignment." Delivered into the possession and control
4 of a person in whom title to the delivered object does not vest
5 but who, by agreement with the consignor, is authorized to
6 convey the consignor's right, title and interest in the object
7 to a third person.

8 Section 3. Consignment.

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

14 Section 4. Property and proceeds.

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

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

21 Section 5. Sale of works.

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

1 necessary to pay the balance due the consignor.

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

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

6 Section 7. Receipt.

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

13 Section 8. Liability for loss or damage.

14 An art dealer who accepts a craft or work of fine ~~work~~ ART on <—
15 consignment shall be liable in a civil action brought by the
16 consignor for the loss of or damages to the craft or work of
17 fine art.

18 Section 9. Waiver of rights.

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

21 Section 10. Application of act.

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

24 Section 11. Effective date.

25 This act shall take effect in 60 days.