

HOUSE BILL NO. 602

INTRODUCED BY FRITZ, SCHYE, ECK,
LORY, BLAYLOCK, B. BROWN

IN THE HOUSE

January 31, 1985	Introduced and referred to Committee on Business and Labor.
February 8, 1985	Committee recommend bill do pass as amended. Report adopted.
	Bill printed and placed on members' desks.
February 9, 1985	Second reading, do pass as amended.
February 11, 1985	Correctly engrossed.
February 12, 1985	Third reading, passed.
	Transmitted to Senate.

IN THE SENATE

February 13, 1985	Introduced and referred to Committee on Business and Industry.
March 19, 1985	Committee recommend bill be concurred in as amended. Report adopted.
March 22, 1985	Second reading, concurred in.
March 25, 1985	Third reading, concurred in. Ayes, 49; Noes, 0.
	Returned to House with amendments.

IN THE HOUSE

March 26, 1985	Received from Senate.
April 8, 1985	Second reading, pass consideration.
April 9, 1985	Second reading, amendments concurred in.
	On motion, rules suspended and bill placed on third reading this day.
	Third reading, amendments concurred in.
	Sent to enrolling.
	Reported correctly enrolled.

1 HOUSE BILL NO. 602

2 INTRODUCED BY Bob Brown

3 Blaylock Bob Brown

4 A BILL FOR AN ACT ENTITLED: "AN ACT DEFINING THE
5 RELATIONSHIP BETWEEN AN ARTIST AND AN ART DEALER; PROVIDING
6 THAT A CONSIGNMENT RELATIONSHIP IS CREATED; PROVIDING THAT
7 THE DEALER IS A TRUSTEE AND HOLDS THE ARTIST'S WORKS AND
8 FUNDS IN TRUST; PROVIDING FOR NOTICE OF SALES TO THE
9 ARTIST."

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 Section 1. Definitions. As used in [this act], unless
13 the context requires otherwise, the following definitions
14 apply:

15 (1) "Art dealer" means a person engaged in the
16 business of selling works of fine art, other than a person
17 exclusively engaged in the business of selling goods at
18 public auction.

19 (2) "Artist" means a person who creates a work of fine
20 art or, if the person is deceased, the person's heir,
21 devisee, or personal representative.

22 (3) "Consignment" means that no title to, estate in,
23 or right to possession of fine art superior to that of the
24 consignor vests in the consignee, notwithstanding the
25 consignee's power or authority to transfer and convey to a

1 third person all of the right, title, and interest of the
2 consignor in and to such fine art.

3 (4) "Fine art" means a painting, sculpture, drawing,
4 work of graphic art (including an etching, lithograph,
5 offset print, textiles, silk screen, or a work of graphic
6 art of like nature), a work of calligraphy, or a work in
7 mixed media (including a collage, assemblage, or any
8 combination of the art media mentioned in this subsection).

9 (5) "Person" means an individual, partnership,
10 corporation, association, or other group, however organized.

11 Section 2. Artist-art dealer relationship.
12 Notwithstanding any custom, practice, or usage of the trade
13 to the contrary, whenever an artist delivers or causes to be
14 delivered a work of fine art of the artist's own creation to
15 an art dealer in this state for the purpose of exhibition or
16 sale, or both, on a commission, fee, or other basis of
17 compensation, the delivery to and acceptance of such work of
18 fine art by the dealer constitutes a consignment, unless the
19 delivery to the art dealer is pursuant to an outright sale
20 for which the artist receives upon delivery or has received
21 prior to delivery full compensation for the work of fine
22 art.

23 Section 3. Agency relationship -- trust property. A
24 consignment of a work of fine art results in the following:

25 (1) The art dealer, after delivery of the work of fine

INTRODUCED BILL
HB 602

1 art, is an agent of the artist for the purpose of sale or
 2 exhibition of the consigned work of fine art within the
 3 state of Montana.

4 (2) The work of fine art constitutes property held in
 5 trust by the consignee for the benefit of the consignor and
 6 is not subject to claim by a creditor of the consignee.

7 (3) The consignee is responsible for the loss of or
 8 damage to the work of fine art.

9 (4) The proceeds from the sale of the work of fine art
 10 constitute funds held in trust by the consignee for the
 11 benefit of the consignor. The proceeds must first be applied
 12 to pay any balance due to the consignor, unless the
 13 consignor expressly agrees otherwise in writing.

14 Section 4. Subsequent sale -- payment to consignor. A
 15 work of fine art received as a consignment remains trust
 16 property, notwithstanding the subsequent purchase thereof by
 17 the consignee directly or indirectly for the consignee's own
 18 account, until the price is paid in full to the consignor.
 19 If the work is resold to a bona fide purchaser before the
 20 consignor has been paid in full, the proceeds of the resale
 21 received by the consignee constitute funds held in trust for
 22 the benefit of the consignor to the extent necessary to pay
 23 any balance due to the consignor and the trusteeship
 24 continues until the fiduciary obligation of the consignee
 25 with respect to the transaction is discharged in full.

1 Section 5. Waiver void -- exemption from UCC. (1) Any
 2 provision of a contract or agreement by which the consignor
 3 waives any provision of [this act] is void.

4 (2) [This act] is not subject to the provisions of
 5 Title 30, chapters 1 through 9.

6 Section 6. Tracking provisions. An art dealer selling
 7 a work of fine art must provide the artist with the name and
 8 address of the purchaser of the work of fine art within 30
 9 days after the sale.

10 Section 7. Saving clause. This act does not apply to a
 11 written contract executed prior to October 1, 1985, unless:

12 (1) the parties agree that this act will apply; or
 13 (2) the contract is extended or renewed after the
 14 effective date of this act.

-End-

APPROVED BY COMM. ON
BUSINESS AND LABOR

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19 public auction.

20 (2) "Artist" means a person who creates a work of fine
21 art or, if the person is deceased, the person's heir,
22 devisee, or personal representative.

23 (3) "Consignment" means that no title to, estate in,
24 or right to possession of fine art superior to that of the
25 consignor vests in the consignee, notwithstanding the

1 consignee's power or authority to transfer and convey to a
2 third person all of the right, title, and interest of the
3 consignor in and to such fine art.

4 (4) "Fine art" means a painting, sculpture, drawing,
5 work of graphic art (including an etching, lithograph,
6 SIGNED LIMITED EDITION offset print, textiles, silk screen,
7 or a work of graphic art of like nature), a work of
8 calligraphy, PHOTOGRAPHS, ORIGINAL WORKS IN CERAMICS, WOOD,
9 METALS, GLASS, PLASTIC, WAX, STONE, OR LEATHER, or a work in
10 mixed media (including a collage, assemblage, or any
11 combination of the art media mentioned in this subsection).

12 (5) "Person" means an individual, partnership,
13 corporation, association, or other group, however organized.



1 Section 3. Agency relationship -- trust property. A
 2 consignment of a work of fine art results in the following:

3 (1) The art dealer, after delivery of the work of fine
 4 art, is an agent of the artist for the purpose of sale or
 5 exhibition of the consigned work of fine art within the
 6 state of Montana. THIS RELATIONSHIP MUST BE DEFINED IN
 7 WRITING AND RENEWED AT LEAST EVERY 3 YEARS BY THE ART DEALER
 8 AND THE ARTIST. IT IS THE RESPONSIBILITY OF THE ARTIST TO
 9 IDENTIFY CLEARLY THE WORK OF ART BY SECURELY ATTACHING
 10 IDENTIFYING MARKING TO OR CLEARLY SIGNING THE WORK OF ART.

11 (2) The work of fine art constitutes property held in
 12 trust by the consignee for the benefit of the consignor and
 13 is not subject to claim by a creditor of the consignee.

14 (3) The consignee is responsible for the loss of or
 15 damage to the work of fine art WHILE IN THE POSSESSION OF OR
 16 ON THE PREMISES OF THE CONSIGNEE.

17 (4) The proceeds from the sale of the work of fine art
 18 constitute funds held in trust by the consignee for the
 19 benefit of the consignor. The proceeds must first be applied
 20 to pay any balance due to the consignor, unless the
 21 consignor expressly agrees otherwise in writing.

22 Section 4. Subsequent sale -- payment to consignor. A
 23 work of fine art received as a consignment remains trust
 24 property, notwithstanding the subsequent purchase thereof by
 25 the consignee directly or indirectly for the consignee's own

1 account, until the price is paid in full to the consignor.
 2 If the work is resold to a bona fide purchaser before the
 3 consignor has been paid in full, the proceeds of the resale
 4 received by the consignee constitute funds held in trust for
 5 the benefit of the consignor to the extent necessary to pay
 6 any balance due to the consignor and the trusteeship
 7 continues until the fiduciary obligation of the consignee
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9 Section 5. Waiver void -- exemption from UCC. (1) Any
 10 provision of a contract or agreement by which the consignor
 11 waives any provision of [this act] is void.

12 (2) [This act] is not subject to the provisions of
 13 Title 30, chapters 1 through 9.

14 Section 6. Tracking provisions. An art dealer selling
 15 a work of fine art must provide, UPON REQUEST FROM THE
 16 ARTIST IN WRITING UPON CONSIGNMENT OF THE WORK, the artist
 17 with the name and address of the purchaser of the work of
 18 fine art WITH PURCHASE PRICE OF \$200 OR MORE within 30 days
 19 after the sale.

20 Section 7. Saving clause. This act does not apply to a
 21 written contract executed prior to October 1, 1985, unless:

22 (1) the parties agree that this act will apply; or
 23 (2) the contract is extended or renewed after the
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25 consignor vests in the consignee, notwithstanding the

1 consignee's power or authority to transfer and convey to a
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-End-

STANDING COMMITTEE REPORT

SENATE

MARCH 19

19 85

MR. PRESIDENT

BUSINESS & INDUSTRY

We, your committee on

having had under consideration

HOUSE BILL

602

No.

third reading copy (blue)
color

ARTIST-ART DEALER RELATIONSHIP

Respectfully report as follows: That.....

HOUSE BILL

602

be amended as follows:

1. Page 2, line 18.
Following: "exhibition"
Strike: "or"
Insert: "and"

2. Page 2, line 19.
Following: "sale"
Strike: ", or both,"

AND AS AMENDED

BE CONCURRED IN

XXXXXX

XXXXXX

Sen. Mike Halligan

Chairman.

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REFERENCE BILL

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