

Commerce
Burroughs, Chairperson
Nolting
Rodgers

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SENATE FILE 153

By KELLY and REDMOND

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to sales of works of fine art.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. NEW SECTION. DEFINITIONS. As used in this
2 Act unless the context otherwise requires:

3 1. "Artist" means a person who creates a work of fine
4 art.

5 2. "Fine art" means an original painting, sculpture or
6 drawing.

7 Sec. 2. NEW SECTION. PERCENTAGE PAYMENT TO ARTIST RE-
8 QUIRED. Whenever a work of fine art is sold and the seller
9 resides in Iowa or the sale takes place in Iowa, the seller
10 or the seller's agent shall pay to the artist of the work
11 of fine art or to the artist's agent five percent of the
12 amount of the sale. The right of the artist to receive an
13 amount equal to five percent of the amount of the sale is
14 not transferable and may be waived only by a contract in
15 writing providing for an amount in excess of five percent.
16 When a work of art is sold at an auction or by a gallery,
17 dealer, broker, museum or other person acting as the agent
18 for the seller, the agent shall withhold five percent of the
19 amount of the sale, locate the artist and pay the artist the
20 five percent.

21 Sec. 3. NEW SECTION. ROLE OF ARTS COUNCIL. If the seller
22 or agent is unable to locate and pay the artist within ninety
23 days of the date of the sale, an amount equal to the five
24 percent of the amount of the sale shall be transferred to
25 the Iowa state arts council created pursuant to chapter three
26 hundred four A (304A) of the Code. Moneys received by the
27 Iowa state arts council pursuant to this section shall be
28 deposited in the artist's royalties fund which is hereby
29 created in the office of the treasurer of state. The council
30 shall attempt to locate any artist for whom money is received
31 pursuant to this section. If the council is unable to locate
32 the artist and the artist does not file a written claim for
33 the money received by the council within seven years of the
34 date of sale of the work of art, the right of the artist to
35 the money shall terminate and the funds shall be transferred

1 to the account of the Iowa state arts council to fund programs
2 conducted by the council pursuant to chapter three hundred
3 four A (304A) of the Code.

4 Sec. 4. NEW SECTION. FAILURE TO PAY FIVE PERCENT. If
5 a seller or an agent fails to pay an artist the amount equal
6 to five percent of the sale price of the work of fine art
7 or fails to transfer such amount to the Iowa state arts coun-
8 cil, the artist may bring an action for damages within three
9 years after the date of sale or one year after the discovery
10 of the sale, whichever is longer.

11 Sec. 5. NEW SECTION. EXCEPTIONS. The provisions of this
12 Act shall not apply to the following:

13 1. The initial sale of a work of fine art where legal
14 title to such work at the time of the initial sale is vested
15 in the artist who created the work of fine art.

16 2. To the resale of a work of fine art for a gross sales
17 price of less than one thousand dollars.

18 3. To a resale after the death of the artist.

19 4. To the resale of the work of fine art for a gross sales
20 price less than the purchase price paid by the seller.

21 5. To a transfer of a work of fine art which is exchanged
22 for one or more works of fine art or for a combination of
23 cash, other property, and one or more works of fine art where
24 the fair market value of the property exchanged is less than
25 one thousand dollars.

26 Sec. 6. The provisions of this Act shall apply to all
27 works of fine art sold on or after January 1, 1978 whether
28 created before or after that date.

29 EXPLANATION

30 This bill provides that, whenever a work of fine art is
31 sold and the seller resides in Iowa or the sale takes place
32 in Iowa, the seller or an agent shall pay to the artist of
33 the work of fine art, or to the artist's agent five percent
34 of the amount of such sale within 90 days of the sale; and
35 if the artist is not located by the seller or an agent within

1 90 days the money shall be deposited by the Iowa state arts
2 council in the artist's royalties fund created in the office
3 of the treasurer of state. If the council is unable to locate
4 the artist and the money is not claimed within seven years
5 it shall be transferred to the council's operating fund to
6 fund programs of the council. The five percent payment would
7 not be required where legal title to such work at the time
8 of the initial sale is vested in the artist thereof, or where
9 the resale of such work of fine art is for a price of less
10 than \$1,000, where the resale of the work of fine art occurs
11 after the death of the artist, where the resale gross sales
12 price is less than the purchase price paid by the seller,
13 or where there is a transfer or exchange involving a work
14 of fine art where the fair market value is less than \$1,000.

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