

CONSIGNMENTS BETWEEN ARTISTS AND ART DEALERS

556D.1 Definitions.

As used in this chapter, unless the context requires otherwise:

1. "*Art dealer*" means a person engaged in the business of selling works of fine art, in a shop or gallery devoted in the majority to works of fine art, other than a person engaged in the business of selling goods of general merchandise or at a public auction.
2. "*Artist*" means the person who creates a work of fine art or, if such person is deceased, the person's personal representative.
3. "*Consignment*" means a delivery of a work of fine art under which no title to, estate in, or right to possession superior to that of the consignor vests in the consignee, notwithstanding the consignee's power or authority to transfer and convey to a third person all of the right, title, and interest of the consignor in and to the fine art.
4. "*Fine art*" means a painting, sculpture, drawing, mosaic, photograph, work of graphic art, including an etching, lithograph, offset print, silk screen, or work of graphic art of like nature, a work of calligraphy, or a work in mixed media including a collage, assemblage, or any combination of these art media which is one of a kind or is available in a limited issue or series. "*Fine art*" also means crafts which include work in clay, textiles, fiber, wood, metal, plastic, glass, or similar materials which is one of a kind or is available in a limited issue or series.
5. "*Stated value*" means the amount agreed to be paid to the consignor.

86 Acts, ch 1233, § 1

556D.2 Consignment.

If an artist delivers or causes to be delivered a work of fine art of the artist's own creation to an art dealer in this state for the purpose of exhibition or sale on a commission, fee, or other basis of compensation, the delivery to and acceptance of the work of fine art by the art dealer is a consignment, unless the delivery to the art dealer is an outright sale for which the artist receives or has received full compensation upon delivery.

When an art dealer accepts a work of fine art for the purposes of sale or exhibition and sale to the public on a commission, fee, or other basis of compensation, there shall be a contract or agreement between the artist and art dealer which shall include the following provisions:

1. That the amount of the proceeds due the artist from the sale of the work of fine art shall be delivered to the artist at a time agreed upon by the artist and the art dealer.
2. That the art dealer shall be responsible for the stated value of the work of fine art in the event of the loss of or damage to the work of fine art while it is in the possession of the art dealer.
3. That the work of fine art shall be sold by the art dealer only for the amount agreed upon by the artist in the contract or agreement and that the art dealer will take only the commission or fee agreed upon.
4. That the work of fine art may be used or displayed by the art dealer or any other person only with the prior written consent of the artist. The artist may require that the artist be acknowledged in the use of the work of fine art.

86 Acts, ch 1233, § 2

556D.3 Conditions of consignment.

The following apply to consignment:

1. The art dealer, after delivery of the work of fine art, becomes an agent of the artist for the purpose of sale or exhibition of the consigned work of fine art.
2. The work of fine art shall be held in trust by the consignee for the benefit of the consignor and is not subject to claim by a creditor of the consignee.
3. The consignee is responsible for the loss of or damage to the work of fine art, unless otherwise mutually agreed upon in writing between the artist and art dealer in which case the art dealer shall be required to exercise all due diligence and care with regard to the work of fine art. In case of a waiver, the burden shall be on the dealer to demonstrate the waiver was entered into in good faith.
4. The proceeds from the sale of the work of fine art shall be held in trust by the consignee for the benefit of the artist. The proceeds shall first be applied to pay any balance due the artist unless the artist expressly agrees otherwise in writing.

86 Acts, ch 1233, § 3

556D.4 Consignment trust arrangement.

A consignment remains trust property, even if purchased by the art dealer, until the price is paid in full to the artist. If the work is resold to a bona fide purchaser before the artist has been paid in full, the proceeds of the resale received by the art dealer constitute funds held in trust for the benefit of the artist to the extent necessary to pay any balance still due to the artist and the trusteeship continues until the fiduciary obligation of the art dealer with respect to the transaction is discharged in full.

86 Acts, ch 1233, § 4

556D.5 Waiver provision void.

A provision of a contract or agreement where the art dealer waives a provision of this chapter is void.

86 Acts, ch 1233, § 5