

Introduced: 2/1/80  
Referred: Commerce, Judiciary  
and Finance

1 IN THE SENATE

BY SUMNER

2 SENATE BILL NO. 373

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the sale of fine art."

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

8 \* Section 1. AS 45.45 is amended by adding a new section to read:

9 ARTICLE 6. SALE OF FINE ART.

10 Sec. 45.45.250. SALE OF WORKS OF FINE ART. (a) When a work of  
11 fine art is sold and the seller resides in the state or the sale of the  
12 work of fine art takes place in the state, the seller or his agent shall  
13 pay to the artist of the work of fine art, or the artist's agent, a  
14 royalty equal to five percent of the amount of the gross sales price.

15 (b) The right of an artist to receive a royalty equal to five  
16 percent of the amount of the gross sales price from the sale of a work  
17 of fine art is not transferable. The right may be modified only by a  
18 written contract signed by the artist or his agent and the selling party  
19 or his agent which provides for the payment of a royalty greater than  
20 five percent of the gross sales price in the event of sale of a work of  
21 art. An artist may not waive the right to receive the royalty payment.

22 (c) Payment of the amount required to be paid to an artist by this  
23 section is the responsibility of the seller or his agent. The seller or  
24 his agent shall make a good faith effort to locate the artist and trans-  
25 mit the payment required by this section. If the seller or his agent is  
26 unable to locate and pay the artist within 90 days, the amount required  
27 to be paid to the artist by this section shall be transmitted to the  
28 Alaska State Council on the Arts for deposit to a special account.

29 (d) This section does not apply to

1 (1) the initial sale of a work of fine art if legal title to  
2 the work is vested in the artist at the time of sale;

3 (2) the resale of a work of fine art after the death of the  
4 artist;

5 (3) the resale of a work of fine art for a gross sales price  
6 of less than \$1,000;

7 (4) the exchange of a work of fine art for one or more works  
8 of fine art, or for a combination of cash, other property, and one or  
9 more works of fine art, if the fair market value of the property ex-  
10 changed is less than \$1,000.

11 (e) In this section,

12 (1) "artist" means the person who creates a work of fine art;

13 (2) "fine art" means an original painting, sculpture, draw-  
14 ing, photograph, or work of graphic art.

15 \* Sec. 2. AS 45.05.120(e) is amended to read:

16 (e) Whenever an artist delivers or causes to be delivered a work  
17 of fine art of his own creation to an art dealer for the purpose of  
18 sale, or exhibition and sale to the public on a commission or fee or  
19 other basis of compensation, the work of fine art is not subject to the  
20 claims of the art dealer's creditors. Whenever a person who is not an  
21 artist, or the agent, of the artist, delivers a work of fine art to an  
22 art dealer for the purpose of sale and the work is sold, the amount of  
23 the gross sales price of the work of fine art which shall be withheld  
24 for payment to the artist under AS 45.45.250 is not subject to the  
25 claims of the creditors of the art dealer. For the purposes of this  
26 subsection

27 (1) "art dealer" means a person other than a public auction-  
28 eer engaged in the business of selling works of fine art;

29 (2) "artist" means the creator of a work of fine art;

1 (3) "fine art" includes a painting, sculpture, drawing,  
2 photograph, or work of graphic art.

3 \* Sec. 3. AS 44.19.930 is amended by adding a new paragraph to read:

4 (6) to administer a special account called the "artist's  
5 royalty account," to which the council shall deposit amounts received  
6 from sellers of works of fine art, or their agents, who are unable to  
7 locate artists for the purpose of making payment of the portion of the  
8 gross sales price under AS 45.45.250; in the administration of the  
9 special account, the council shall

10 (A) receive payments from the resale of a work of fine  
11 art and deposit the payments to the account;

12 (B) attempt to locate an artist for whom money is re-  
13 ceived under (A) of this paragraph and remit payment of the amount  
14 due to that artist;

15 (C) in the event of inability to locate the artist or  
16 failure of the artist to submit a written claim for a payment due  
17 to him within two years, transfer the amount due the artist to the  
18 general fund of the state; and

19 (D) manage the account to protect the amounts on de-  
20 posit.