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BILL SUMNER

Alaska State Senator

DURING SESSION:
POUCH V
JUNEAU, ALASKA 99811
(907) 485-3791

OUT OF SESSION:
1016 WEST 6TH AVENUE
SUITE 415
ANCHORAGE, ALASKA 99501
(907) 272-4541

DISTRICT 7-E

COMMITTEES:
RESOURCES
CHAIRMAN
FINANCE
RULES
COMMITTEE ON COMMITTEES
JOINT INTERIM COMMITTEE
ON GAS PIPELINE FINANCING

Christian:

Attached is some information on the artists' royalty bill...the California statute and a memo from Jack Chenoweth.

Quite simply, the bill is intended to allow artists to profit when their art work appreciates since right now they receive no financial benefits. As far as what the Arts Council can do with the money, the bill as drafted says on page 3, section (C) that when the Arts Council can't find the artist and the money has been in the account for two years, the money will then lapse into the general fund. We would rather see the Arts Council keep the money and use it to develop the arts in Alaska. This might be an appropriate change.

Give a call with any more questions and I'll see what else I can put together.

Cheryl

Cheryl Frasca
Bill Sumner's Office
2.25.80

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99801


LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

January 31, 1980

SUBJECT: Artist's royalty on resale of works of
fine art. (Work Order Number 7775)

TO: Senator Bill Summer

FROM: John B. Chenoweth
Legislative Counsel 

Some notes on the significant differences between this bill draft and the California statute:

I have expanded the definition of "work of fine art" from the "original painting, sculpture, or drawing" of the California statute to include also "photograph or work of graphic art." The basis of the change is the comparable definition used in Chapter 8, SLA 1979, relating to protection of the artist's interest in his works of fine art placed with a dealer for sale as against claims by the creditors of the dealer.

I have deleted from the provisions of the Alaska bill the California provision excluding payment in the event of resale by a seller for a price that is lower than his original purchase price: few works of fine art of first quality would meet the test of this exclusion, but the presence of the exclusion, to me, suggests a loophole that might defeat the artist's rights or at least present problems of proof if he attempts to secure judicial relief.

I have reduced by five years, from seven to two, the time given to the Alaska State Council on the Arts to locate an artist based on my reading of the statute of limitations (AS 09.10.070) under which an artist would be able to secure judicial assistance in collecting an amount due him because of a resale of a work of fine art. Likewise, rather than impose a separate statute of limitations, as California does, for suits by an artist in furtherance of rights granted by AS 45.45.250, I have made no mention of this in the bill draft. I suggest that the applicable statute of limitations -- that is, the time in which the artist may initiate a cause of action based on rights given in AS 45.45.250 -- is two years:

Senator Bill Summer
Page 2
January 31, 1980

No person may bring an action . . .

* * *

(3) upon a liability created by statute, other than a penalty or forfeiture, unless commenced within two years.

AS 09.10.070. If a longer statutory period seems necessary, please advise and I will redraft following your instructions.

In all other respects, I have followed the California statute as the model for this bill draft.

JBC:ljb

Enclosure

Publication and preemption in copyright law: *Elegiac reflections on Goldstein v California*. (1975) 22 UCLA LR 1022.

Photocopying and record piracy: *Of Dred Scott and Alice in Wonderland*. (1975) 22 UCLA LR 1052.

State Protection of Intellectual Property. 60 ABAJ 198.

→ § 986. [Sale of fine art]

(a) Whenever a work of fine art is sold and the seller resides in California or the sale takes place in California, the seller or his agent shall pay to the artist of such work of fine art or to such artist's agent 5 percent of the amount of such sale. The right of the artist to receive an amount equal to 5 percent of the amount of such sale is not transferable and may be waived only by a contract in writing providing for an amount in excess of 5 percent of the amount of such sale.

(1) When a work of art is sold at an auction or by a gallery, dealer, broker, museum, or other person acting as the agent for the seller the agent shall withhold 5 percent of the amount of the sale, locate the artist and pay the artist.

(2) If the seller or agent is unable to locate and pay the artist within 90 days, an amount equal to 5 percent of the amount of the sale shall be transferred to the Arts Council.

(3) If a seller or his agent fails to pay an artist the amount equal to 5 percent of the sale of a work of fine art by the artist or fails to transfer such amount to the Arts Council, the artist may bring an action for damages within three years after the date of sale or one year after the discovery of the sale, whichever is longer.

(4) Moneys received by the council pursuant to this section shall be deposited in an account in the Special Deposit Fund in the State Treasury.

(5) The Arts Council shall attempt to locate any artist for whom money is received pursuant to this section. If the council is unable to locate the artist and the artist does not file a written claim for the money received by the council within seven years of the date of sale of the work of fine art, the right of the artist terminates and such money shall be transferred to the operating fund of the council as reimbursement to fund programs of the council.

(6) Any amounts of money held by any seller or agent for the payment of artists pursuant to this section shall be exempt from attachment or execution of judgment by the creditors of such seller or agent.

(b) Subdivision (a) shall not apply to any of the following:

(1) To the initial sale of a work of fine art where legal title to such work at the time of such initial sale is vested in the artist thereof.

(2) To the resale of a work of fine art for a gross sales price of less than one thousand dollars (\$1,000).

(3) To a resale after the death of such artist.

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

(5) To a transfer of a work of fine art which is exchanged for one or more works of fine art or for a combination of cash, other property, and one or

California. (1975) 22
LA LR 1052.

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more works of fine art where the fair market value of the property exchanged is less than one thousand dollars (\$1,000).

(c) For purposes of this section, the following terms have the following meanings:

(1) "Artist" means the person who creates a work of fine art.

(2) "Fine art" means an original painting, sculpture, or drawing.

(d) This section shall become operative on January 1, 1977, and shall apply to works of fine art created before and after its operative date.

(e) If any provision of this section or the application thereof to any person or circumstance is held invalid for any reason, such invalidity shall not affect any other provisions or applications of this section which can be effected, without the invalid provision or application, and to this end the provisions of this section are severable.

Added Stats 1976 ch 1228 § 1.

Note —Stats 1976 ch 1228 also provides: § 2. The rights of an artist of a work of fine art to receive payment of an amount equal to 5 percent of the amount of a sale of fine art within the provisions of Section 986 shall be vested at the time of such sale; except that an artist shall have no rights to any payment pursuant to this act, if any provision therein is subsequently repealed so as to remove the provisions for such payment, as to any sale which occurs subsequent to such repeal; and except that, in the event any provision in this act is otherwise subsequently amended or changed, an artist shall have only those rights to payment provided for by such subsequent amendment or change and shall have no rights to any payment pursuant to this act, as to any sale which occurs subsequent to such amendment or change.

A critical comment on California's Droit de Suite, Civil Code Section 986. (1977) 29 Hast LJ 249.

SUGGESTED FORM

Complaint by Artist Against Owner of Art Gallery for Damages—Failure to Pay Artist Prescribed Percentage from Sale of Fine Art

[Title of Court and Cause]

1. Plaintiff resides at 1 [address], in the City of 2, County of 3, State of 4

2. Defendant is the sole proprietor of the 5 [specify gallery] located at 6 [address], in the City of 7, County of 8, State of California, and has been engaged for the past 9 years in the sale and purchase of fine art.

3. On 10, 1911, plaintiff completed work on a 12 [painting or sculpture or drawing or as the case may be] entitled "13" 14 [If applicable, set forth further description of art work].

4. On 15, 1916, plaintiff sold the 17 [painting or sculpture or drawing or as the case may be] to 18 [initial purchaser] for the sum of \$19. A copy of the receipt of such sale is attached, marked Exhibit "—," and by reference made part hereof.

5. On 20, 1921, defendant acquired the 22 [painting or sculpture or drawing or as the case may be] from 23 [initial purchaser] in exchange for the following described 24 [painting(s) or as the case may be] owned by defendant: 25 Plaintiff is informed and believes and thereon alleges that the fair market value of the work(s) of art exchanged amounted to \$26.

6. On 27, 1928, defendant sold the 29 [painting or sculpture or drawing or as the case may be] on the gallery premises to 30 [purchaser] for a gross sale price of \$31.



Official Business

Alaska State Legislature

Senate

Committee on Commerce

Pouch V
State Capitol
Juneau, Alaska 99811

February 25, 1980

Christine D'Arcy
Visual Arts Director
Alaska State Council on the Arts
619 Warehouse Avenue, Suite 220
Anchorage, AK 99501

Dear Ms. D'Arcy:

Unfortunately our appointment on February 21, 1980, did not materialize. Nevertheless, I am interested in your views on the proposed act relating to the sale of fine art (SB 373). I have enclosed a copy of this bill for your review.

Please send your comments within 15 days so we may expedite this legislation.

Sincerely,

Christian Basler

Christian Basler
Administrative Assistant

Enclosure: Senate Bill 373

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:

ARTICLE 6. SALE OF FINE ART.

9
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

*5% because of
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TAX*

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. - (jewelry) gold

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;

hence a minimum of \$50.00 per sale paid in tax.

could be jewelry "Chenowitz"

[Handwritten signature]

AK. State Council of the Arts.

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.

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SB-373

Byron Bizetsall
~~Byron~~ ~~Bizetsall~~ - Artist Summers
office spoke with.
- Modeled on Calif. Bill.

Jack Chenowitz. - 3837
Legal Dept.
#7775 work order

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K-STATE CAPITOL
JUNEAU, ALASKA 99811

February 19, 1980

Senator Brad Bradley, Chairman
Senate Commerce Committee
Alaska State Legislature
Pouch V, State Capitol
Juneau, Alaska 99811

Re: Senate Bill 373, relating to the sale of fine art

Dear Senator Bradley:

In response to your February 4 request for comments from this department regarding this legislation, we have reviewed the bill, and offer the following comments.

While the idea of protecting the artist's interest in a work of art has considerable merit, there are some problems in this bill. For example:

(a) Its provisions apparently apply to sales of fine art by private persons (not just commercial sales), and to resales by private persons for \$1,000 or more. Neither the bill nor AS 45.45 as it stands makes clear whether the intent is to cover commercial sales only. If the bill is intended to apply to non-commercial sellers, there will be a serious problem in trying to keep track of sales.

(b) The burden placed on the seller or seller's agent to locate the artist and transmit payment (subsection (c) of AS 45.45.250) may be unworkable and create another kind of enforcement problem -- keeping track of the artists. Perhaps some agency, such as the State Council on the Arts, should maintain a current listing of artists' addresses and furnish that information to sellers to aid them in fulfilling that duty. The burden would be on the artist to make sure that his or her current address was on file.

(c) It is not clear how the modification agreement under AS 45.45.250(b) will be enforced for future sales.

Senator Bradley
February 19, 1980
Page 2

(d) It is unusual for a person to be able to collect repeatedly for later increases in price on resales of a product. This may give rise to litigation, e.g., regarding whether a seller obtained a higher resale price through his or her own expertise in promotion or display techniques.


(e) The definitions of "fine art" (AS 45.45.-250(e)(2) and (45.05.120(e)(3)) do not coincide (which in fact, may be intentional). The definition in AS 45.45.250(e)(2) includes the word "original", but the other section does not. Also, the definitions exclude works such as ivory carvings, prints made by silk screen or wood cut, etc., works done by weaving, and a number of other possible original creations properly thought of as fine art. This may be unfairness in the law. On the other hand, it may not be workable to include such works and still distinguish between "art" and "crafts".

(f) The word "withheld" on line 23, page 2, probably should be "held".

Our department is in no position to prepare a fiscal note on possible costs of the proposal.

Very truly yours,

AVRUM M. GROSS
ATTORNEY GENERAL

By: 
Sarah T. Kavasharov
Assistant Attorney General

AMG:jb:STK

ROBERT L. MANLEY

1312 West 15th Avenue

Anchorage, Alaska 99501

March 11, 1980

Senator Brad Bradley
Chairman Senate Commerce Committee
Alaska State Legislature
Pouch U
Juneau, Alaska 99811

RE: Senate Bill 373,
An act regulating the sale of fine art

Dear Senator Bradley:

I am writing to voice my opposition to Senate Bill 373, an act relating to the sale of fine art, which I understand is presently before your committee. In essence, the act establishes an artist's royalty of 5% of the gross sales price to be paid on each resale of works of fine art. Legislation of this type is apparently intended to allow an artist to participate through his or her life in the profits realized from the appreciation of works of fine art. Ideally, the poor struggling artist who is forced to sell his or her work at a pittance merely to survive can reap a portion of the benefits of the increased value of such works after he or she is discovered and is able to command a substantial price for his or her work. I am opposed to the Bill because neither in theory nor practice would such a law work to the benefit of most artists.

Under present law an artist is free to copyright art works and thus prohibit their reproduction. Likewise, by private contract, the artist can establish the type of royalty scheme provided by Senate Bill 373. In a free market place such a contract proposal would probably reduce the initial sales price of the work of art. If the collector must pay a royalty upon resale, he will realize a smaller profit and, accordingly, must reduce his investment in order to obtain the return he seeks. If the royalty scheme is mandated by law, the same result will occur and the initial sales price will be reduced to the detriment of the artist.

Senator Brad Bradley
Page 2
March 11, 1980

A particularly objectionable aspect of the Bill is tying the royalty of "gross sales price." If a person purchased a painting for \$5,000 and because of market conditions or personal financial condition was forced to sell it for \$3,000 through an agent thus netting only \$2,000, because of commission, the crowning insult would be the requirement of paying the artist a further \$150 royalty. Tying the matter to net profit would help cure that inequity, but in an inflationary environment "profit" on resale involves inflated dollars and the actual profit is very much smaller.

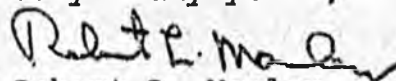
Another problem is in § 1(e)(2) defining fine art. The section provides that "'fine art' means an original painting, sculpture, drawing, photograph or work of graphic art." If the Bill is passed, the work "includes" should be substituted for the word "means" in this spot. This change would bring the provision into conformity with AS 45.05.120(e)(3) and thus would adopt a nonexclusive definition. The border line between "arts" and "crafts" is rather indistinct. Certainly if someone paid in excess of \$1,000 for a weaving or piece of pottery, it would seem to fall within the category of "fine art."

I am not sure who proposed the Bill to Senator Sumner or who is lobbying in favor of it; however, the proposal to involve the Alaska State Council on the Arts simply establishes another brick in the massive of Alaskan bureaucracy. An uncharitable reviewer might even characterize the proposal as a small exercise in empire building on the part of the Alaska State Council on the Arts.

It does not appear that at the present time the Bill would work primarily to the benefit of Alaskan artists. The people who will be reaping royalties are LeRoy Neiman, Frederick Hunterwasser and other well established international artists. Under the Bill the royalty would be payable to such international artists even if the sale was consummated at a foreign auction house.

I don't believe that the proposal has any more merit than a proposal to allow architects or contractors to participate by way of royalty in the appreciation of buildings which they design or construct. Thank you for your consideration of my opinion and I urge you to oppose Senate Bill 373.

Very truly yours,


Robert L. Manley

Chris Manley/Fabrications Inc.
1312 West 15th - Anchorage, Alaska 99501
(907) 274-9907

3.16.80

Dear Senator Summer,

I am a consumer of the visual arts as well as a working visual artist. I urge you to re-consider your decision to support Senate Bill 373 dealing with a 5% royalty tax on the sale of fine art.

My research has shown that similar legislation in California enacted 23 years ago has failed to help the very artists it was supposed to help. It has encouraged the consumers of visual arts to rethink future purchasing of art.

In this day of spiraling inflation and higher taxes it seems poor money management to add a program of this magnitude when the Alaska State Council on the

-2-

Arts does not have the staff or funding in its budget to operate this program. There is a conflict in the definitions of fine art, page 2, e 2, and page 3, e 3. I suggest if there is mass support of this Bill that the definitions reflect that fine art includes a painting, sculpture, drawing, photograph, or work of graphic art.

I am opposed to Senate Bill 373 as the negative impact on the visual arts will far outweigh any positive effects.

Sincerely,
Christine Manley

cc Senator Brad Bradley
Commerce Committee Chairman



Ms. Susan R. Clark
1109 C Street
Juneau, Alaska
99801

JUNEAU ARTS COUNCIL
Box 562
Juneau, Alaska 99802

cc: Christian Basler
Commerce Committee

QUESTIONNAIRE

Senate Bill 373, "An Act relating to the sales of fine art."

I. Do you favor a royalty fee on the sale of your art? If so, is 5% acceptable?

yes \rightarrow However I do not feel the artist should get a % of the gross, but rather a percentage (say 30%) of the increase over the original price ^{paid by the owner} (ie use percentage of the profit made in the resale)

I AM A FEMALE ARTIST & collector

II. Should the seller or ^{her} his agent carry prime responsibility for dispersal of the royalty fee? (PLEASE DO NOT USE SEXIST OR NON inclusive language in the bill)

Whoever handles the \$ - it could be either at different times + not all sellers have agents

III. In the event that the seller or ^{her} his agent cannot locate the artist for payment, should that payment be restricted to deposit in a special account with the Alaska State Council on the Arts?

Sounds reasonable, but artist searches could be expensive + bureaucracy being what it is.... This may not be so simple a process

If the artist is deceased, is the ~~payment~~ ^{deposit} no longer required ~~the artist should~~

JUNEAU ARTS COUNCIL
Box 562
Juneau, Alaska 99802

What about payment of the royalty to the estate or family of a deceased artist? I should think this would only be fair at least ~~for~~ as far as the artists immediate

IV. If deposited with the Alaska State Council on the Arts, are the administrative functions for the management of such funds satisfactory? family (husband, wife, children, or parents).

No 2 yrs is too short a time and if

funds are to "disolve" into the State they should not go to general fund, but to ^{the} art

Council (whoops - conflict of interest?) - well to something

related to programs for artists, otherwise it's just an additional ^{STATE} tax on the sale of art

V. Would you be willing to testify before a legislative committee regarding this particular issue?

yes

VI. Other comments:

I am an artist who works in a fiber medium -

I create fiber art as wall art + sculpture.

Recently commissioned pieces of fiber art by the state have been bringing in \$1,000 - 5,000. It is art, it

is not craft. Fiber art is appreciating + the

demand is ^{currently} growing at a fast rate. My work, I expect to increase in value if only because fiber art is currently underpriced. "Fine & t" should include fiber art

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:

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12 work of fine art takes place in the state, the seller or his/^{her} 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~~³⁰
16 percent of the amount of the ~~gross sales price~~^{profit} from the sale of a work
17 of fine art is ~~not~~^{what about families (immediate)} transferable. The right may be modified only by a
18 written contract signed by the artist or his/^{her} agent and the selling party
19 or his/^{her} agent which provides for the payment of a royalty greater than
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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.

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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;

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4 artist;

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6 of less than \$1,000;

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10 changed is less than \$1,000.

11 (e) In this section,

12 (3) "art" means

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

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

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

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

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

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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.