

# MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND NINTH LEGISLATURE

**Legislative Document**

**No. 1454**

H. P. 1171

House of Representatives, March 23, 1979

On Motion of Mrs. Post of Owl's Head, referred to the Committee on Taxation.  
Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Tierney of Lisbon.

Cosponsors: Mrs. Nelson of Portland, Mrs. Masterton of Cape Elizabeth  
and Mr. Leonard of Woolwich.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-NINE

**AN ACT to Encourage the Maine State Museum Commission to Acquire Works of  
Art Beneficial to the State.**

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. 27 MRSA c. 2, 3rd & 4th lines are enacted to read:

**SUBCHAPTER I**

**GENERAL PROVISIONS**

Sec. 2. 27 MRSA c. 2, sub-c. II is enacted to read:

**SUBCHAPTER II**

**ACCEPTANCE OF WORKS OF ART FROM ESTATES**

**§ 91. Definitions**

As used in this subchapter, unless the context otherwise indicates, the following terms shall have the following meanings.

1. **Commission.** "Commission" means the Maine State Museum Commission.

2. **Work of art.** "Work of art" includes any painting, portrait, mural, decoration, stained glass, statue, tablet, bas-relief, ornament, fountain or other article or structure of a permanent character intended for decoration or commemoration, and any historical material defined in section 86-A.

**§ 92. Payment of inheritance and estate tax in works of art**

A decedent's estate may pay all or part of any tax owed by the decedent's estate to the State by payment in the form of one or more works of art, subject to section 93. An executor, administrator or trustee shall follow the procedure set out in section 93 to make payment in works of art taken from the decedent's estate:

1. **Decedent directs.** If the decedent has so directed by a will; or
2. **Executor, administrator or trustee finds advantage.** In the absence of a direction in the decedent's will, if the executor, administrator or trustee finds that this method of payment is advantageous to the estate.

**§ 93. Procedure for payment in works of art**

1. **Selection.** The executor, administrator or trustee of any estate, desiring to pay all or part of an estate tax or inheritance tax owed the State in one or more works of art, shall notify the commission of his desire to do so. The commission shall, within a reasonable period of time and after consulting with the Maine State Commission on the Arts and the Humanities, notify the executor, administrator or trustee, and the State Tax Assessor, as to whether, in the judgment of the commission, it would be advantageous to the State to accept one or more works of art as payment for the estate or inheritance tax. The commission's decision shall be final and nonappealable.

Acceptance of a work of art is advantageous to the State if its acceptance:

- A. Encourages the preservation of original or noteworthy works of art;
  - B. Furthers the preservation and understanding of fine arts traditions which have existed in Maine;
  - C. Furthers the understanding of the fine arts by the people of Maine; or
  - D. Aids in establishment of important state collections of works of art.
2. **Agreement on valuation.** If the commission finds that it would be advantageous for the State to accept payment in one or more works of art as payment for the estate or inheritance tax, the commission and the executor, administrator or trustee shall, as a condition of state acceptance of this method of payment, mutually agree in writing on the current market value at the time of the decedent's death of each work of art proposed to be accepted. Upon agreement, the commission shall forward a copy of the proposed valuation to the State Tax Assessor, who shall have 45 days from the date of notification to object to that valuation.

If the State Tax Assessor objects, he shall set forth his objection in writing and forward that objection to the commission and to the executor, administrator or trustee, who may, taking into account the State Tax Assessor's objections, submit a new agreed upon valuation for his approval. If the State Tax Assessor rejects this new valuation within 45 days of its submission, the State shall be deemed not to accept the proposed method of payment in works of art.

3. **Acceptance.** If the State Tax Assessor does not object to a submitted valuation of a work of art within 45 days of its submission, the State shall be deemed to have accepted the work of art as complete or partial payment of the estate or inheritance tax owed, and the commission shall assume title to that work of art as soon as practicable.

4. **Credit against tax.** Upon the assumption of title to a work of art by the commission, the State Tax Assessor shall credit, against the amount owed by the estate, the valuation of that work of art as agreed upon under subsection 2. In no case shall any credit allowed by this subsection be greater than the amount of estate or inheritance tax owed by the decedent's estate.

5. **Limitation on aggregate value of works of art accepted during one fiscal year.** The commission shall not, during any fiscal year, assume title to works of art which have an aggregate value of more than \$500,000, unless:

A. The State Budget Officer, on application from the commission and in extraordinary circumstances, permits the commission to exceed that limit; or

B. The commission transfers into the General Fund, not later than the end of the next fiscal year, revenue equalling or exceeding the amount by which the commission has exceeded that limit.

Sec. 3. 36 MRSA § 3688 is enacted to read:

§ 3688. **Payment of taxes in inheritance of works of art**

The State Tax Assessor shall accept payment of estate and inheritance taxes in works of art in accordance with Title 27, chapter 2, subchapter II.

STATEMENT OF FACT

This bill permits an artist's estate to pay death taxes in the form of works of art.

The basic procedure is this:

The artist states in his will that he wants those taxes to be paid in works of art, or, if the artist has no will, the administrator of the estate decides that it would be advantageous to pay those taxes in the form of works of art. The executor or administrator then approaches the Maine State Museum Commission and states that he would like to pay the death taxes in the form of works of art.

The commission reviews the work of art, and, if it decides that Maine would benefit by accepting the work of art, it agrees on a monetary value with the executor or administrator.

If the State Tax Assessor has no objection to the agreed-upon valuation, the commission then assumes title to the work of art and the State Tax Assessor credits the valuation of the work of art against the death tax owed the State.

This bill provides a simple way of keeping art owned by Maine residents in Maine after those residents die, and enables the State to acquire, at minimal cost, art which will greatly benefit Maine citizens.