

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

Legislative Document

No. 1479

H.P. 1011

House of Representatives, April 10, 1991

Reference to the Committee on Legal Affairs suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative ADAMS of Portland.

Cosponsored by Representative CONSTANTINE of Bar Harbor, Representative GRAHAM of Houlton and Senator LUDWIG of Aroostook.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY-ONE

An Act to Protect the Copyright and Ownership Rights of Maine Artists.

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

27 MRS A §304 is enacted to read:

§304. Ownership rights in works of fine art

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Artist" means the creator of a work of fine art.

B. "Customer" means a person who contracts to have a printer duplicate a work of fine art. "Customer" includes the State.

C. "Duplicate" means to print, copy or otherwise reproduce.

D. "Printer" means a person who contracts to duplicate a work of fine art for a customer.

E. "Work of fine art" means any work of visual or graphic art of any media including, but not limited to, fine art, fine print or film. "Work of fine art" does not include the aesthetic appearance of an article used in commerce.

2. Right of reproduction. Whenever a work of fine art is sold or otherwise transferred by or on behalf of the artist who created it, or the heirs or personal representatives of the artist, the right of reproduction of the work of fine art is reserved to the grantor until the right passes into the public domain pursuant to federal copyright laws, unless the right is expressly transferred in writing signed by the owner of the rights conveyed prior to the rights passing into the public domain. Nothing in this section prohibits the fair use, as defined in the federal copyright law, 17 United States Code, Section 107, of the work of fine art.

3. Ownership. Whenever an exclusive or nonexclusive conveyance of any right to reproduce, prepare derivative works based on, distribute copies of or display publicly a work of fine art is made by or on behalf of the artist who created it or the owner at the time of the conveyance, ownership of the physical work of fine art remains with and is reserved to the artist or owner, as the case may be, unless the right of ownership is expressly transferred in writing signed by the artist or the owner.

4. Ambiguity. Whenever an exclusive or nonexclusive conveyance of any right to reproduce, prepare derivative works based on, distribute copies of or publicly display a work of fine

2 art is made by or on behalf of the artist who created it or the
3 owner at the time of the conveyance, any ambiguity with respect
4 to the nature or extent of the rights conveyed must be resolved
5 in favor of the reservation of rights by the artist or owner
6 unless the federal copyright law, 17 United States Code, Section
7 1 et. seq., provides the contrary.

8 5. Affidavit. A printer may not enter into an agreement
9 with a customer to duplicate a work of fine art when that
10 customer's aggregate obligations to that printer for all prior or
11 current duplications of that work of fine art exceed \$1,000
12 unless the printer obtains, at the time the aggregate obligation
13 first exceeds \$1,000, an affidavit from the customer attesting
14 that the affiant has legal rights authorizing the duplication or
15 that those rights have passed into the public domain pursuant to
16 federal copyright laws.

17 6. Exception. This section does not apply to the
18 duplication of works of fine art under the fair use doctrine of
19 federal copyright law, 17 United States Code, Section 107.
20

21 7. Violation. A printer who contracts for the duplication
22 of a work of fine art without an affidavit as required in
23 subsection 5 is guilty of a Class E crime. A customer who
24 provides a printer with a false affidavit to satisfy the
25 conditions of subsection 5 commits a Class E crime.
26

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28 **STATEMENT OF FACT**

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32 This bill provides that the right of reproduction of a work
33 of fine art is reserved to the artist and that the ownership of
34 the original of a reproduced work of art remains with the artist
35 or owner, as the case may be, unless expressly transferred.

36 This bill prohibits a printer from accepting an order in
37 excess of \$1000 for printing duplicates of a work of fine art
38 without an affidavit that the customer has the right to duplicate
39 the work.
40