

# MAINE STATE LEGISLATURE

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# 124th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2009

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Legislative Document

No. 1062

S.P. 396

In Senate, March 17, 2009

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### An Act To Protect Artists and Art Galleries

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Reference to the Committee on Business, Research and Economic Development suggested and ordered printed.

Handwritten signature of Joy J. O'Brien in cursive.

JOY J. O'BRIEN  
Secretary of the Senate

Presented by Senator ALFOND of Cumberland.  
Cosponsored by Speaker PINGREE of North Haven and  
Senators: DAMON of Hancock, PERRY of Penobscot, Representatives: GOODE of Bangor,  
MacDONALD of Boothbay, MAZUREK of Rockland, McKANE of Newcastle, WELSH of  
Rockport.

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

2 Sec. 1. 10 MRSA c. 215-A is enacted to read:

3 CHAPTER 215-A

4 ARTIST AND ART GALLERY RELATIONSHIP

5 §1459. Definitions

6 As used in this chapter, unless the context otherwise indicates, the following terms  
7 have the following meanings.

8 1. Art gallery. "Art gallery" means a business or establishment that is actively and  
9 principally engaging in or conducting the business of selling works of fine art and that  
10 holds a current sales tax permit.

11 2. Artist. "Artist" means a person who creates a work of fine art and who, at the  
12 time of the sale of the work of art by an art gallery, is a citizen of the United States or a  
13 resident of this State for a minimum of 2 years.

14 3. Division of money. "Division of money" means the percentage or predetermined  
15 total compensation that the artist and art gallery will receive from the sale of a work of  
16 fine art.

17 4. Fine art. "Fine art" means an original painting, sculpture or drawing or an  
18 original work of art in glass.

19 5. Minimum artist compensation. "Minimum artist compensation" means the  
20 artist's percentage of the lowest selling price or the predetermined total compensation for  
21 the artist decided on at the establishment of the relationship between the artist and art  
22 gallery under section 1459-A, whichever is lower.

23 §1459-A. Establishment of relationship

24 When an artist provides or loans a work of fine art to an art gallery for the purpose of  
25 its being sold by the art gallery on behalf of the artist, a relationship is established, and  
26 the factors set out in this section must be determined by the artist and the art gallery for  
27 each work of fine art:

28 1. Fair market value. The fair market value of the work of fine art;

29 2. Lowest selling price. The lowest price at which the artist authorizes the work of  
30 fine art to be sold; and

31 3. Division of money. The division of money.

32 §1459-B. Art gallery information provided

33 An art gallery shall provide an artist with the names and contact information for all  
34 administrative members of the art gallery, which include, but are not limited to, the

1 owner, manager, landlord, property manager and board members, within 30 days of  
2 establishing a relationship under section 1459-A. An art gallery shall provide any  
3 updates to this information to the artist within 30 days of the art gallery's learning of such  
4 changes.

5 **§1459-C. Bankruptcy proceedings**

6 If an art gallery enters bankruptcy proceedings, the art gallery shall notify an artist  
7 who has established a relationship under section 1459-A with that art gallery of the first  
8 meeting of creditors no later than 14 days prior to that meeting.

9 **§1459-D. Termination of relationship**

10 At either the art gallery's or the artist's discretion, a relationship under section 1459-A  
11 may be terminated. The art gallery shall return to the artist all unsold works of fine art  
12 made by the artist and pay to the artist all outstanding money due.

13 **§1459-E. Fair exchange of value**

14 Unless otherwise determined by a court, an artist must receive either the unsold work  
15 of fine art or the minimum artist compensation for each work of fine art provided or  
16 loaned to an art gallery.

17 **§1459-F. Right to pursue damages**

18 If an art gallery fails to comply with this chapter, an artist may bring an action for  
19 damages within 3 years after the date of the sale of a work of fine art that the artist has  
20 not been compensated for or one year after the failure to comply, whichever is longer.  
21 The prevailing party in any action brought under this section is entitled to reasonable  
22 attorney's fees in an amount as determined by the court.

23 **SUMMARY**

24 This bill clarifies the relationship between an artist and an art gallery, including the  
25 financial responsibilities of the artist and the art gallery.