

I am vetoing Section 6 in order to allow the codification of this bill into RCW 43.19, which governs the duties of the Department of General Administration. (This bill relates to their duties.)

With the exception of Section 6, which I have vetoed, the remainder of Substitute House Bill No. 49 is approved."

CHAPTER 33

[Substitute House Bill No. 219]

ART DEALER, ARTIST RELATIONSHIP

AN ACT Relating to businesses and professions; adding a new chapter to Title 18 RCW; adding a new section to Title 62A RCW; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Section 1. As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise.

(1) "Art dealer" means a person, partnership, firm, association, or corporation, other than a public auctioneer, which undertakes to sell a work of fine art created by another.

(2) "Artist" means the creator of a work of fine art.

(3) "On consignment" means delivered to an art dealer for the purpose of sale or exhibition, or both, to the public by the art dealer other than at a public auction.

(4) "Work of fine art" means an original art work which is:

(a) A visual rendition including a painting, drawing, sculpture, mosaic, or photograph;

(b) A work of calligraphy;

(c) A work of graphic art including an etching, lithograph, offset print, or silk screen;

(d) A craft work in materials including clay, textile, fiber, wood, metal, plastic, or glass; or

(e) A work in mixed media including a collage or a work consisting of any combination of works included in this subsection.

NEW SECTION. Sec. 2. If an art dealer accepts a work of fine art on a fee, commission, or other compensation basis, on consignment from the artist:

(1) The art dealer is, with respect to that work of fine art, the agent of the artist.

(2) The work of fine art is trust property and the art dealer is trustee for the benefit of the artist until the work of fine art is sold to a bona fide third party.

(3) The proceeds of the sale of the work of fine art are trust property and the art dealer is trustee for the benefit of the artist until the amount due the artist from the sale is paid. These trust funds shall be paid to the

artist within thirty days of receipt by the art dealer unless the parties expressly agree otherwise in writing. If the sale of the work of fine art is on installment, the funds from the installment shall first be applied to pay any balance due the artist on the sale, unless the artist expressly agrees in writing that the proceeds on each installment shall be paid according to a percentage established by the consignment agreement.

(4) The art dealer is strictly liable for the loss of or damage to the work of fine art while it is in the art dealer's possession. For the purpose of this subsection the value of the work of fine art is the value established in a written agreement between the artist and art dealer prior to the loss or damage or, if no written agreement regarding the value of the work of fine art exists, the fair market value of the work of fine art.

A work of fine art which is trust property when initially accepted by the art dealer remains trust property notwithstanding the subsequent purchase of the work of fine art by the art dealer directly or indirectly for the art dealer's own account until the purchase price is paid in full to the artist. No property which is trust property under this section is subject to the claims, liens, or security interests of the creditors of the art dealer.

NEW SECTION. Sec. 3. (1) An art dealer may accept a work of fine art on a fee, commission, or other compensation basis, on consignment from the artist only if prior to or at the time of acceptance the art dealer enters into a written contract with the artist which states:

- (a) The value of the work of fine art;
- (b) The minimum price for the sale of the work of fine art; and
- (c) The fee, commission, or other compensation basis of the art dealer.

(2) An art dealer who accepts a work of fine art on a fee, commission, or other compensation basis, on consignment from the artist may use or display the work of fine art or a photograph of the work of fine art or permit the use or display of the work or photograph only if:

- (a) Notice is given to users or viewers that the work of fine art is the work of the artist; and
 - (b) The artist gives prior written consent to the particular use or display.
- (3) Any portion of a contract which waives any provision of this chapter is void.

NEW SECTION. Sec. 4. An art dealer violating section 3 of this act is liable to the artist for fifty dollars plus actual damages, including incidental and consequential damages, sustained as a result of the violation. If an art dealer violates section 3 of this act, the artist's obligation for compensation to the art dealer is voidable. In an action under this section the court may, in its discretion, award the artist reasonable attorney's fees.

NEW SECTION. Sec. 5. This chapter applies to any work of fine art accepted on consignment on or after the effective date of this act. If a work of fine art is accepted on consignment on or after the effective date of this

act under a contract made before that date, this section applies only to the extent that it does not conflict with the contract.

NEW SECTION. Sec. 6. Sections 1 through 5 of this act shall constitute a new chapter in Title 18 RCW.

NEW SECTION. Sec. 7. There is added to Title 62A RCW a new section to read as follows:

Chapter 18.— RCW (Sections 1 through 5 of this act) shall control over any conflicting provision of this title.

Passed the House March 17, 1981.

Passed the Senate April 9, 1981.

Approved by the Governor April 17, 1981.

Filed in Office of Secretary of State April 17, 1981.

CHAPTER 34

[House Bill No. 163]

HANDICAPPED VOTERS ASSISTANCE

AN ACT Relating to voting; amending section 29.51.200, chapter 9, Laws of 1965 as amended by section 17, chapter 101, Laws of 1965 ex. sess. and RCW 29.51.200; amending section 29.51.215, chapter 9, Laws of 1965 and RCW 29.51.215; and repealing section 29.51.210, chapter 9, Laws of 1965 and RCW 29.51.210.

Be it enacted by the Legislature of the State of Washington:

Section 1. Section 29.51.200, chapter 9, Laws of 1965 as amended by section 17, chapter 101, Laws of 1965 ex. sess. and RCW 29.51.200 are each amended to read as follows:

~~((The operation of))~~ Voting shall be secret except to the extent necessary to assist sensory or physically ~~((disabled))~~ handicapped voters.

If any voter declares in the presence of the election officers that ~~((by reason))~~ because of sensory or physical ~~((disability;))~~ handicap he is unable to register or record his vote ~~((upon the machine, (1)))~~, he may designate ~~((his spouse or any near relative who is also a registered voter to enter the voting machine booth with him and mark his ballot, or (2)))~~ a person of his choice or two election officers ~~((who must be of))~~ from opposite political parties ~~((in case of partisan elections or primaries, shall))~~ to enter the voting machine booth with him and ~~((register))~~ record his vote ~~((for such candidates and for or against such measures as he may designate))~~ as he directs.

Sec. 2. Section 29.51.215, chapter 9, Laws of 1965 and RCW 29.51.215 are each amended to read as follows:

Any person violating any provision of RCW ~~((29.51.210))~~ 29.51.200, as now or hereafter amended, shall be punished as for a misdemeanor.