

TITLE 28
COMMERCIAL TRANSACTIONS

CHAPTER 11
ARTISTS AND ART DEALERS

PART 1.
ARTIST AND ART DEALER

28-11-101. DEFINITIONS. As used in this chapter, unless the context requires otherwise, the following definitions apply:

(1) "Art dealer" means a person engaged in the business of selling works of fine art, other than a person exclusively engaged in the business of selling goods at public auction.

(2) "Artist" means a person who creates a work of fine art or, if the person is deceased, the person's heir, devisee, or personal representative.

(3) "Consignment" means that no title to, estate in or right to possession of fine art superior to that of the consignor vests in the consignee, notwithstanding the consignee's power or authority to transfer and convey to a third person all of the right, title and interest of the consignor in and to the fine art.

(4) "Fine art" means a painting, sculpture, drawing, work of graphic art, including an etching, lithograph, signed limited edition offset print, silk screen, or a work of graphic art of like nature; a work of calligraphy, photographs, original works in ceramics, wood, metals, glass, plastic, wax, stone or leather or a work in mixed media, including a collage, assemblage, or any combination of the art media mentioned in this subsection.

(5) "Person" means an individual, partnership, corporation, association, or other group, however organized.

[28-11-101, added 1987, ch. 127, sec. 1, p. 257.]

28-11-102. ARTIST-ART DEALER RELATIONSHIP. Notwithstanding any custom, practice or usage of the trade to the contrary, whenever an artist delivers or causes to be delivered a work of fine art of the artist's own creation to an art dealer in this state for the purpose of exhibition and sale on a commission, fee, or other basis of compensation, the delivery to and acceptance of the work of fine art by the art dealer constitutes a consignment, unless the delivery to the art dealer is pursuant to an outright sale for which the artist receives upon delivery or has received prior to delivery full compensation for the work of fine art.

[28-11-102, added 1987, ch. 127, sec. 1, p. 258.]

28-11-103. AGENCY RELATIONSHIP -- TRUST PROPERTY. A consignment of a work of fine art results in the following:

(1) The art dealer, after delivery of the work of fine art, is an agent of the artist for the purpose of sale or exhibition of the consigned work of fine art within the state of Idaho. This relationship shall be defined in writing and renewed at least every three (3) years by the art dealer and the artist. It is the responsibility of the artist to identify clearly the work of art by securely attaching identifying marking to or clearly signing the work of art.

(2) The work of fine art constitutes property held in trust by the consignee for the benefit of the consignor and is not subject to claim by a creditor of the consignee.

(3) The consignee is responsible for the loss of or damage to the work of fine art while in the possession of or on the premises of the consignee.

(4) The proceeds from the sale of the work of fine art constitute funds held in trust by the consignee for the benefit of the consignor. The proceeds shall first be applied to pay any balance due to the consignor, unless the consignor expressly agrees otherwise in writing.

[28-11-103, added 1987, ch. 127, sec. 1, p. 258.]

28-11-104. SUBSEQUENT SALE -- PAYMENT TO CONSIGNOR. A work of fine art received as a consignment remains trust property, notwithstanding the subsequent purchase thereof by the consignee directly or indirectly for the consignee's own account until the price is paid in full to the consignor. If the work is resold to a bona fide purchaser before the consignor has been paid in full, the proceeds of the resale received by the consignee constitute funds held in trust for the benefit of the consignor to the extent necessary to pay any balance due to the consignor and the trusteeship continues until the fiduciary obligation of the consignee with respect to the transaction is discharged in full.

[28-11-104, added 1987, ch. 127, sec. 1, p. 258.]

28-11-105. WAIVER VOID -- EXEMPTION FROM UCC. (1) Any provision of a contract or agreement by which the consignor waives any provision of this part of this chapter is void.

(2) This part of this chapter is not subject to the provisions of chapters 1 through 10, [title 28](#), Idaho Code.

[28-11-105, added 1987, ch. 127, sec. 1, p. 259.]

28-11-106. APPLICATION. This part of this chapter does not apply to a written contract executed prior to July 1, 1987, unless:

- (1) The parties agree that this part of this chapter will apply; or
- (2) The contract is extended or renewed after July 1, 1987.

[28-11-106, added 1987, ch. 127, sec. 1, p. 259.]