



General Assembly

February Session, 2012

Raised Bill No. 5328

LCO No. 1428

01428 _____ GL_

Referred to Committee on General Law

Introduced by:
(GL)

AN ACT ESTABLISHING A FINE ART SECURED LENDING LICENSE.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2012*) (a) For purposes of
2 sections 1 to 9, inclusive, of this act, "fine art" means any (1) drawing;
3 (2) painting; (3) sculpture; (4) mosaic; (5) photograph; (6) work of
4 calligraphy; (7) work of graphic art, including any etching, lithograph,
5 offset print, silkscreen or other work of graphic art; (8) craft work in
6 clay, textile, fiber, metal, plastic or other material; (9) art work in mixed
7 media, including any collage, assemblage or other work combining
8 any of the artistic media named in this definition, or combining any of
9 said media with other media; or (10) a master from which copies of an
10 artistic work can be made, such as a mold or a photographic negative,
11 with a market value of at least two thousand five hundred dollars.
12 "Fine art" shall not include (A) commissioned work prepared under
13 contract for trade or advertising usage, provided the artist, prior to
14 creating the work, has signed an agreement stating that said work shall
15 be a commissioned work which may be altered without consent, and
16 (B) work prepared by an employee within the scope of such
17 employee's employment duties.

18 (b) No person shall, in any city or town of this state, engage in or
19 carry on the business of loaning money upon deposits or pledges of
20 fine art unless such person is licensed in accordance with section 2 of
21 this act. The provisions of sections 1 to 9, inclusive, of this act shall
22 apply only if such fine art is deposited with a lender, and shall not
23 apply to loans made upon stock, bonds, notes or other written or
24 printed evidence of ownership of fine art or of indebtedness to the
25 holder or owner of any such securities.

26 Sec. 2. (NEW) (*Effective October 1, 2012*) (a) The licensing authority of
27 any town or city may grant licenses to suitable persons to be fine art
28 secured lenders in such town or city respectively, and may suspend or
29 revoke such licenses for cause, which shall include, but not be limited
30 to, failure to comply with any requirements for licensure specified by
31 the licensing authority at the time of issuance.

32 (b) The person so licensed shall pay, for the benefit of any such city
33 or town, respectively, or if the licensing authority of such city or town
34 is the Commissioner of Emergency Services and Public Protection, for
35 the benefit of the Department of Emergency Services and Public
36 Protection, to the licensing authority a license fee of fifty dollars, and
37 twenty-five dollars per year thereafter for renewal of such license, and
38 shall, at the time of receiving such license, file, with the licensing
39 authority of such city or town, a bond to such city or town, with
40 competent surety, in the penal sum of two thousand dollars, to be
41 approved by such licensing authority, and conditioned for the faithful
42 performance of the duties and obligations pertaining to the business so
43 licensed, unless such person is also licensed as a secondhand dealer in
44 accordance with section 21-47d of the general statutes, in which case
45 the licensing authority shall waive the payment of renewal fees and
46 filing of a bond required by this subsection.

47 (c) Each such license shall designate the place where such business
48 is to be carried on and shall be in effect for one year unless sooner
49 suspended or revoked. Such license shall be displayed in a

50 conspicuous location in the place where such business is carried on. At
51 the time of application for such license and each renewal thereof, the
52 applicant shall disclose to the licensing authority all places used or
53 intended to be used by the business for the purchase, receipt, storage
54 or sale of fine art. During the term of such license, the licensee shall
55 notify the licensing authority of any additional places that will be used
56 by the business for the purchase, receipt, storage or sale of fine art
57 prior to such use.

58 (d) An application for such license shall be made in writing, under
59 oath. The application shall contain: (1) The type of business to be
60 engaged in, (2) the applicant's full name, age and date and place of
61 birth, (3) the applicant's residence addresses and places of employment
62 within the preceding five years, (4) the applicant's present occupation,
63 (5) any crime of which the applicant has been convicted and the date
64 and place of such conviction, and (6) such additional information as
65 the licensing authority deems necessary to investigate the
66 qualifications, character, competency and integrity of the applicant. If
67 the applicant is a corporation, limited liability company, partnership or
68 association, the application shall contain the information required by
69 this subsection for each individual who is or will be an officer,
70 shareholder, financial backer or creditor, other than a financial
71 institution, of such entity or any other individual with a relationship to
72 such entity similar to that of an officer, shareholder, financial backer or
73 creditor.

74 (e) The application for such license and any renewal thereof shall
75 identify or provide the address for any Internet web site or account
76 used by such applicant to conduct the business. During the term of the
77 license, the licensee shall notify the licensing authority in writing of the
78 addition or discontinuation of any Internet web site or account used to
79 conduct the business.

80 (f) No license shall be issued under this section by the licensing
81 authority to any person who has been convicted of a felony. The

82 licensing authority may require any applicant, employee or person
83 with an ownership interest in the business to submit to state and
84 national criminal history records checks. Whenever the licensing
85 authority requires such criminal history records checks, such
86 individual shall submit two complete sets of fingerprints on forms
87 prescribed by the licensing authority. Any criminal history records
88 checks required pursuant to this subsection shall be conducted in
89 accordance with section 29-17a of the general statutes. The licensing
90 authority may charge the individual a fee equal to the fees established
91 by the Federal Bureau of Investigation and the State Police Bureau of
92 Identification for performing such criminal history records checks.

93 (g) The licensing authority shall grant or deny an application for a
94 license not later than ninety days after the filing of such application
95 with the licensing authority. A licensee seeking renewal of such license
96 shall file an application for renewal at least sixty days before the
97 expiration of such license and the licensing authority shall grant or
98 deny such renewal not later than thirty days after the filing of such
99 application for renewal. Failure of the licensing authority to act on
100 such initial application or renewal application within the applicable
101 period specified in this subsection shall be deemed to be a denial. The
102 licensing authority may suspend, revoke or modify any license issued
103 under this section at any time during the period of the license for good
104 cause shown, upon notice to the licensee and following a hearing. The
105 licensing authority shall hold any such hearing not later than five days
106 after the date of issuance of such notice and shall issue a decision not
107 more than fourteen days after any hearing. Any person aggrieved by
108 any action of the licensing authority in denying, suspending, revoking,
109 modifying or refusing to renew a license issued pursuant to this
110 section may appeal from such action to the Superior Court.

111 Sec. 3. (NEW) (*Effective October 1, 2012*) (a) No fine art secured
112 lender shall take, receive or purchase fine art without receiving proof
113 of the identity of the person depositing, pledging or selling the fine art.
114 Such identification shall include a photograph, an address, if available

115 on the identification, and an identifying number, including, but not
116 limited to, date of birth. No fine art secured lender shall enter into any
117 pledge or purchase transaction with a minor unless such minor is
118 accompanied by such minor's parent or guardian.

119 (b) Each such fine art secured lender shall maintain a computerized
120 record-keeping system deemed appropriate by the licensing authority,
121 in which shall be entered in English, at the time the secured lender
122 receives any article of fine art by way of pledge, deposit or purchase, a
123 description of such article, the name, residence address, proof of
124 identity as required in subsection (a) of this section and a general
125 description of the person from whom, and the date and hour when,
126 such fine art was received and in which, if the fine art does not contain
127 any identifiable numbers or markings, shall be included a digital
128 photograph of each article. Each entry in the record-keeping system
129 shall be numbered consecutively. A tag shall be attached to the article
130 in a visible and convenient place with a number written on such tag
131 corresponding to the entry number in the record-keeping system and
132 shall remain attached to the article until the article is sold or otherwise
133 disposed of, provided the licensing authority shall prescribe
134 procedures authorizing the removal of such tags from articles,
135 including those articles consisting of jewelry that are cleaned and
136 repaired on the premises by the fine art secured lender, that will
137 provide accountability for such articles. Such tag shall be visible in a
138 digital photograph taken in accordance with this section. Such record-
139 keeping system and the place where such business is carried on and all
140 articles of fine art therein may be examined at all times by any state
141 police officer, municipal police officer, the licensing authority or any
142 person designated by them. Any state police officer or municipal
143 police officer who performs such an examination may require any
144 employee on the premises to provide proof of the employee's identity.
145 All records maintained pursuant to this section shall be retained by the
146 fine art secured lender for not less than two years.

147 (c) Except as provided in subsection (d) of this section, the

148 description of any fine art received by a fine art secured lender under
149 this section shall include, but not be limited to, all distinguishing
150 marks, names of any kind, including serial numbers, engravings,
151 etchings, affiliation with any institution or organization, dates, initials,
152 color, vintage or image represented. Any description of media of any
153 kind shall also include the title and artist or any other identifying
154 information contained on the cover or external surface of such media.

155 (d) The licensing authority may provide for an exemption from, or
156 establish additional or different requirements than, the requirements of
157 subsection (c) of this section upon consideration of the nature of the
158 fine art, transaction or business, including, but not limited to, articles
159 in bulk lots.

160 Sec. 4. (NEW) (*Effective October 1, 2012*) (a) Each fine art secured
161 lender shall, at the time of making any loan on a pawn or pledge of
162 fine art or of purchasing such fine art on condition of selling the same
163 back again at a stipulated price deliver to the person who deposits,
164 pledges or sells such fine art a memorandum or note containing (1) the
165 entry required by the provisions of section 3 of this act to be made in
166 such fine art secured lender's computerized record-keeping system,
167 and (2) a statement signed by the person who deposits, pledges or sells
168 such fine art representing and warranting that: (A) Such fine art is not
169 stolen and has no liens or encumbrances against it, (B) such person is
170 the rightful owner of such fine art and has the right to enter into the
171 transaction, and (C) such person will indemnify and hold harmless
172 such fine art secured lender for any loss arising from the transaction
173 because of a superior right of possession to the fine art residing with a
174 third person. Each such fine art secured lender may charge the person
175 who deposits, pledges or sells such fine art a fee for such
176 memorandum or note, the processing and recording of the transaction,
177 the storage of the fine art, any insurance for the fine art and any
178 appraisal of the fine art. Each such fine art secured lender shall pay for
179 any fine art received by deposit, pledge or purchase only by check,
180 draft or money order and shall not pay cash for any such fine art

181 except when the fine art secured lender cashes a check, draft or money
182 order for the person who is depositing, pledging or selling the fine art.
183 When the fine art secured lender cashes a check, draft or money order,
184 such fine art secured lender shall require proof of the identity of the
185 person presenting the check, draft or money order in accordance with
186 subsection (a) of section 3 of this act.

187 (b) Each check, draft or money order used to pay for fine art
188 received by a fine art secured lender shall contain the number or
189 numbers associated with such fine art in the record-keeping system
190 maintained in accordance with section 3 of this act. Whenever payment
191 is made by check, the fine art secured lender shall retain the electronic
192 copy of such check or other record issued by the financial institution
193 that processed such check, and such copy or record shall be subject to
194 inspection pursuant to section 3 of this act as part of such record-
195 keeping system. No fine art secured lender shall cash any check, draft
196 or money order issued by such fine art secured lender in an amount in
197 excess of one thousand dollars and no person shall structure any
198 transaction or transactions to avoid this prohibition. Any transaction or
199 transactions between a fine art secured lender and the same party
200 within a twenty-four-hour period shall be aggregated and considered a
201 single transaction for the purposes of this subsection.

202 Sec. 5. (NEW) (*Effective October 1, 2012*) Each fine art secured lender
203 shall submit to the licensing authority, weekly or more frequently as
204 determined by the licensing authority upon consideration of the
205 volume and nature of the business, a sworn statement of his or her
206 transactions, describing the fine art received and setting forth the
207 nature and terms of each transaction and the name and residence
208 address and a description of the person from whom the fine art was
209 received. Such statement shall be in an electronic format prescribed by
210 the licensing authority. The licensing authority may grant an
211 exemption from the requirement of submitting such statement in
212 electronic format for good cause shown.

213 Sec. 6. (NEW) (*Effective October 1, 2012*) No fine art secured lender or
214 person who loans money on the deposit or pledge of fine art shall take
215 or receive, for the use of money loaned on fine art, any more than the
216 following rates: (1) For the use of money amounting to fifteen dollars
217 or less, five per cent per month or fraction thereof; (2) for the use of
218 money exceeding fifteen dollars in amount and not exceeding fifty
219 dollars in amount, three per cent per month or fraction thereof; and (3)
220 for the use of money exceeding fifty dollars in amount, two per cent
221 per month or fraction thereof.

222 Sec. 7. (NEW) (*Effective October 1, 2012*) No fine art secured lender
223 shall sell or dispose of any fine art left with such fine art secured
224 lender in deposit or pledge for money loaned or as a result of the
225 purchase of such fine art on condition of selling the same back again at
226 a stipulated price in less than sixty days from the date when the same
227 is left in deposit or pledge or purchased on condition of selling the
228 same back again at a stipulated price, except when such sale or
229 disposition is to the person who deposited, pledged or sold such fine
230 art or an authorized agent of such person. All such fine art may be sold
231 or disposed of at the place of business of such fine art secured lender
232 or at public sale after such sixty-day period. Upon the expiration of
233 sixty days from the date when such fine art is left with a fine art
234 secured lender, if the person who deposited or pledged such fine art
235 fails to redeem any such fine art in accordance with the terms of the
236 transaction, such right of redemption or repurchase on the part of the
237 person who deposited or pledged such fine art shall be extinguished
238 and the fine art secured lender shall acquire the entire interest in the
239 fine art that was held by the person who deposited or pledged such
240 fine art prior to such deposit or pledge without further notice to such
241 person.

242 Sec. 8. (NEW) (*Effective October 1, 2012*) Whenever property is seized
243 from the place of business of a fine art secured lender by a law
244 enforcement officer, such officer shall give the fine art secured lender a
245 duly signed receipt for the fine art containing a case number, a

246 description of the fine art, the reason for the seizure, the name and
 247 address of the officer, the name and address of the person claiming a
 248 right to the fine art prior to the fine art secured lender and the name of
 249 the fine art secured lender. If the fine art secured lender claims an
 250 ownership interest in such fine art, he or she may request the return of
 251 such fine art by filing a request for such fine art with the law
 252 enforcement agency in accordance with the provisions of section 54-
 253 36a of the general statutes. If the person who deposited, pledged or
 254 sold any fine art received by a fine art secured lender is convicted of
 255 any offense arising out of such fine art secured lender's acquisition,
 256 retention or disposition of the fine art and such fine art secured lender
 257 suffered an economic loss as a result of such offense, the court, at the
 258 time of sentencing, may order restitution to such fine art secured
 259 lender pursuant to subsection (c) of section 53a-28 of the general
 260 statutes and such order may be enforced in accordance with section
 261 53a-28a of the general statutes.

262 Sec. 9. (NEW) (*Effective October 1, 2012*) (a) Any person who wilfully
 263 engages in the business of a fine art secured lender, unless licensed
 264 according to law, or after notice that his or her license has been
 265 suspended or revoked, shall be guilty of a class D felony.

266 (b) Any person who wilfully violates any provision of sections 1 to
 267 8, inclusive, of this act for which no other penalty is provided shall be
 268 guilty of a class A misdemeanor.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2012</i>	New section
Sec. 2	<i>October 1, 2012</i>	New section
Sec. 3	<i>October 1, 2012</i>	New section
Sec. 4	<i>October 1, 2012</i>	New section
Sec. 5	<i>October 1, 2012</i>	New section
Sec. 6	<i>October 1, 2012</i>	New section
Sec. 7	<i>October 1, 2012</i>	New section
Sec. 8	<i>October 1, 2012</i>	New section

Sec. 9	October 1, 2012	New section
--------	-----------------	-------------

Statement of Purpose:

To establish a fine art secured lender license.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]