



Substitute House Bill No. 5328

Public Act No. 12-131

AN ACT ESTABLISHING A FINE ART SECURED LENDING LICENSE.

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

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

(b) No person shall, in any city or town of this state, engage in or

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carry on the business of loaning money upon deposits or pledges of fine art unless such person is licensed in accordance with section 2 of this act. The provisions of sections 1 to 8, inclusive, of this act shall apply only if such fine art is deposited with a lender, and shall not apply to loans made upon stock, bonds, notes or other written or printed evidence of ownership of fine art or of indebtedness to the holder or owner of any such securities.

Sec. 2. (NEW) (*Effective October 1, 2012*) (a) The licensing authority of any town or city may grant licenses to suitable persons to be fine art secured lenders in such town or city respectively, and may suspend or revoke such licenses for cause, which shall include, but not be limited to, failure to comply with any requirements for licensure specified by the licensing authority at the time of issuance. For purposes of this section and sections 3 and 5 of this act, "licensing authority" means the chief of police of any town or city or, if such town or city does not have an organized local police department, the Commissioner of Emergency Services and Public Protection.

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

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filing of a bond required by this subsection.

(c) Each such license shall designate the place where such business is to be carried on and shall be in effect for one year unless sooner suspended or revoked. Such license shall be displayed in a conspicuous location in the place where such business is carried on. At the time of application for such license and each renewal thereof, the applicant shall disclose to the licensing authority all places used or intended to be used by the business for the purchase, receipt, storage or sale of fine art. During the term of such license, the licensee shall notify the licensing authority of any additional places that will be used by the business for the purchase, receipt, storage or sale of fine art prior to such use.

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

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

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the addition or discontinuation of any Internet web site or account used to conduct the business.

(f) No license shall be issued under this section by the licensing authority to any person who has been convicted of a felony. The licensing authority may require any applicant, employee or person with an ownership interest in the business to submit to state and national criminal history records checks. Whenever the licensing authority requires such criminal history records checks, such individual shall submit two complete sets of fingerprints on forms prescribed by the licensing authority. Any criminal history records checks required pursuant to this subsection shall be conducted in accordance with section 29-17a of the general statutes. The licensing authority may charge the individual a fee equal to the fees established by the Federal Bureau of Investigation and the State Police Bureau of Identification for performing such criminal history records checks.

(g) The licensing authority shall grant or deny an application for a license not later than ninety days after the filing of such application with the licensing authority. A licensee seeking renewal of such license shall file an application for renewal at least sixty days before the expiration of such license and the licensing authority shall grant or deny such renewal not later than thirty days after the filing of such application for renewal. The licensing authority may suspend, revoke or modify any license issued under this section at any time during the period of the license for good cause shown, upon notice to the licensee and following a hearing. The licensing authority shall hold any such hearing not later than thirty days after the date of issuance of such notice and shall issue a decision not more than fourteen days after any hearing. Any person aggrieved by any action of the licensing authority in denying, suspending, revoking, modifying or refusing to renew a license issued pursuant to this section may appeal from such action to the Superior Court.

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Sec. 3. (NEW) (*Effective October 1, 2012*) (a) No fine art secured lender shall take, receive or purchase fine art without receiving proof of the identity of the person depositing, pledging or selling the fine art. Such identification shall include a photograph, an address, if available on the identification, and an identifying number, including, but not limited to, date of birth. No fine art secured lender shall enter into any pledge or purchase transaction with a minor unless such minor is accompanied by such minor's parent or guardian.

(b) Each such fine art secured lender shall maintain a computerized record keeping system deemed appropriate by the licensing authority, in which shall be entered in English, at the time the secured lender receives any article of fine art by way of pledge, deposit or purchase, a description of such article, the name, residence address, proof of identity as required in subsection (a) of this section and a general description of the person from whom, and the date and hour when such fine art was received and in which, if the fine art does not contain any identifiable numbers or markings, shall be included a digital photograph of each article. Each entry in the record keeping system shall be numbered consecutively. A tag shall be attached to the article in a visible and convenient place with a number written on such tag corresponding to the entry number in the record keeping system and shall remain attached to the article until the article is sold or otherwise disposed of, provided the licensing authority shall prescribe procedures authorizing the removal of such tags from articles, including those articles consisting of jewelry that are cleaned and repaired on the premises by the fine art secured lender, that will provide accountability for such articles. Such tag shall be visible in a digital photograph taken in accordance with this section. Detailed information regarding transactions involving sums taken or received for the purpose of participating in secured art transactions, whether through a collective fund or otherwise, shall be entered into and maintained in the system by the fine art secured lender. Such record

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keeping system and the place where such business is carried on and all articles of fine art therein may be examined at all times by any state police officer, municipal police officer, the licensing authority or any person designated by them. Any state police officer or municipal police officer who performs such an examination may require any employee on the premises to provide proof of the employee's identity. All records maintained pursuant to this section shall be retained by the fine art secured lender for not less than two years.

(c) Except as provided in subsection (d) of this section, the description of any fine art received by a fine art secured lender under this section shall include, but not be limited to, all distinguishing marks, names of any kind, including serial numbers, engravings, etchings, affiliation with any institution or organization, dates, initials, color, vintage or image represented. Any description of media of any kind shall also include the title and artist or any other identifying information contained on the cover or external surface of such media.

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

Sec. 4. (NEW) (*Effective October 1, 2012*) (a) Each fine art secured lender shall, at the time of making any loan on a deposit or pledge of fine art or of purchasing such fine art on condition of selling the same back again at a stipulated price, deliver to the person who deposits, pledges or sells such fine art a memorandum or note containing (1) the entry required by the provisions of section 3 of this act to be made in such fine art secured lender's computerized record keeping system, and (2) a statement signed by the person who deposits, pledges or sells such fine art representing and warranting that: (A) Such fine art is not stolen and has no liens or encumbrances against it, (B) such person is

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the rightful owner of such fine art and has the right to enter into the transaction, and (C) such person will indemnify and hold harmless such fine art secured lender for any loss arising from the transaction because of a superior right of possession to the fine art residing with a third person. Each such fine art secured lender may charge the person who deposits, pledges or sells such fine art a fee for such memorandum or note, the processing and recording of the transaction, the storage of the fine art, any insurance for the fine art and any appraisal of the fine art. Each such fine art secured lender shall pay for any fine art received by deposit, pledge or purchase only by check, draft, wire or money order and shall not pay cash for any such fine art except when the fine art secured lender cashes a check, draft or money order for the person who is depositing, pledging or selling the fine art. When the fine art secured lender cashes a check, draft or money order, such fine art secured lender shall require proof of the identity of the person presenting the check, draft or money order in accordance with subsection (a) of section 3 of this act.

(b) No fine art secured lender or person who loans money on the deposit or pledge of fine art shall take or receive, for the use of money loaned on fine art, any more than two per cent per month or fraction thereof.

(c) Each check, draft or money order used to pay for fine art received by a fine art secured lender shall contain the number or numbers associated with such fine art in the record keeping system maintained in accordance with section 3 of this act. Whenever payment is made by check, the fine art secured lender shall retain the electronic copy of such check or other record issued by the financial institution that processed such check, and such copy or record shall be subject to examination pursuant to section 3 of this act as part of such record keeping system. No fine art secured lender shall cash any check, draft or money order issued by such fine art secured lender in an amount in

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excess of one thousand dollars and no person shall structure any transaction or transactions to avoid this prohibition. Any transaction or transactions between a fine art secured lender and the same party within a twenty-four-hour period shall be aggregated and considered a single transaction for the purposes of this subsection.

Sec. 5. (NEW) (*Effective October 1, 2012*) Each fine art secured lender shall submit quarterly to the licensing authority a sworn statement of his or her transactions, describing the fine art received and summarizing the nature and terms of each transaction. Such statement shall be in an electronic format prescribed by the licensing authority. The licensing authority may grant an exemption from the requirement of submitting such statement in electronic format for good cause shown. Each fine art secured lender shall maintain a written record of the name and residence address and a description of each person from whom the fine art was received and shall make such written record available to law enforcement authorities upon request.

Sec. 6. (NEW) (*Effective October 1, 2012*) Whenever property is seized from the place of business of a fine art secured lender by a law enforcement officer, such officer shall give the fine art secured lender a duly signed receipt for the fine art containing a case number, a description of the fine art, the reason for the seizure, the name and address of the officer, the name and address of the person claiming a right to the fine art prior to the fine art secured lender and the name of the fine art secured lender. If the fine art secured lender claims an ownership interest in such fine art, he or she may request the return of such fine art by filing a request for such fine art with the law enforcement agency in accordance with the provisions of section 54-36a of the general statutes. If the person who deposited, pledged or sold any fine art received by a fine art secured lender is convicted of any offense arising out of such fine art secured lender's acquisition, retention or disposition of the fine art and such fine art secured lender

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suffered an economic loss as a result of such offense, the court, at the time of sentencing, may order restitution to such fine art secured lender pursuant to subsection (c) of section 53a-28 of the general statutes and such order may be enforced in accordance with section 53a-28a of the general statutes.

Sec. 7. (NEW) (*Effective October 1, 2012*) No fine art secured lender shall sell or dispose of any fine art left with such fine art secured lender in deposit or pledge for money loaned or as a result of the purchase of such fine art on condition of selling the same back again at a stipulated price in less than sixty days from the date when the same is left in deposit or pledge or purchased on condition of selling the same back again at a stipulated price, except when such sale or disposition is to the person who deposited, pledged or sold such fine art or an authorized agent of such person. All such fine art may be sold or disposed of at the place of business of such fine art secured lender or at public sale after such sixty-day period. Upon the expiration of sixty days from the date when such fine art is left with a fine art secured lender, if the person who deposited or pledged such fine art fails to redeem any such fine art in accordance with the terms of the transaction, such right of redemption or repurchase on the part of the person who deposited or pledged such fine art shall be extinguished and the fine art secured lender shall acquire the entire interest in the fine art that was held by the person who deposited or pledged such fine art prior to such deposit or pledge without further notice to such person. The provisions of this subsection shall not apply if a fine art secured lender and a person who leaves fine art with such lender have entered into a contract regarding the disposal of such fine art.

Sec. 8. (NEW) (*Effective October 1, 2012*) (a) Any person who wilfully engages in the business of a fine art secured lender, unless licensed according to law, or after notice that his or her license has been suspended or revoked, shall be guilty of a class D felony.

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(b) Any person who wilfully violates any provision of sections 1 to 7, inclusive, of this act for which no other penalty is provided shall be guilty of a class A misdemeanor.

Sec. 9. (NEW) (*Effective October 1, 2012*) The provisions of sections 1 to 8, inclusive, of this act shall not apply to any bank, out-of-state bank or any affiliate of a bank or out-of-state bank, as such terms are defined in section 36a-2 of the general statutes.

Approved June 15, 2012