



General Assembly

Amendment

February Session, 2012

LCO No. 3857

HB0532803857HDO

Offered by:

REP. TABORSAK, 109th Dist.

SEN. DOYLE, 9th Dist.

To: Subst. House Bill No. 5328

File No. 89

Cal. No. 101

"AN ACT ESTABLISHING A FINE ART SECURED LENDING LICENSE."

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. (NEW) (*Effective October 1, 2012*) (a) For purposes of
4 sections 1 to 7, inclusive, of this act, "fine art" means any (1) drawing;
5 (2) painting; (3) sculpture; (4) mosaic; (5) photograph; (6) work of
6 calligraphy; (7) work of graphic art, including any etching, lithograph,
7 offset print, silkscreen or other work of graphic art; (8) craft work in
8 clay, textile, fiber, metal, plastic or other material; (9) art work in mixed
9 media, including any collage, assemblage or other work combining
10 any of the artistic media named in this definition, or combining any of
11 said media with other media; or (10) a master from which copies of an
12 artistic work can be made, such as a mold or a photographic negative,
13 with a market value of at least two thousand five hundred dollars.
14 "Fine art" shall not include (A) commissioned work prepared under
15 contract for trade or advertising usage, provided the artist, prior to

16 creating the work, has signed an agreement stating that said work shall
17 be a commissioned work which may be altered without consent, and
18 (B) work prepared by an employee within the scope of such
19 employee's employment duties.

20 (b) No person shall, in any city or town of this state, engage in or
21 carry on the business of loaning money upon deposits or pledges of
22 fine art unless such person is licensed in accordance with section 2 of
23 this act. The provisions of sections 1 to 7, inclusive, of this act shall
24 apply only if such fine art is deposited with a lender, and shall not
25 apply to loans made upon stock, bonds, notes or other written or
26 printed evidence of ownership of fine art or of indebtedness to the
27 holder or owner of any such securities.

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

38 (b) The person so licensed shall pay, for the benefit of any such city
39 or town, respectively, or if the licensing authority of such city or town
40 is the Commissioner of Emergency Services and Public Protection, for
41 the benefit of the Department of Emergency Services and Public
42 Protection, to the licensing authority a license fee of fifty dollars and
43 twenty-five dollars per year thereafter for renewal of such license, and
44 shall, at the time of receiving such license, file, with the licensing
45 authority of such city or town, a bond to such city or town, with
46 competent surety, in the penal sum of two thousand dollars, to be
47 approved by such licensing authority and conditioned for the faithful
48 performance of the duties and obligations pertaining to the business so

49 licensed, unless such person is also licensed as a secondhand dealer in
50 accordance with section 21-47d of the general statutes, in which case
51 the licensing authority shall waive the payment of renewal fees and
52 filing of a bond required by this subsection.

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

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

79 (e) The application for such license and any renewal thereof shall
80 identify or provide the address for any Internet web site or account
81 used by such applicant to conduct the business. During the term of the

82 license, the licensee shall notify the licensing authority, in writing, of
83 the addition or discontinuation of any Internet web site or account
84 used to conduct the business.

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

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

114 Sec. 3. (NEW) (*Effective October 1, 2012*) (a) No fine art secured

115 lender shall take, receive or purchase fine art without receiving proof
116 of the identity of the person depositing, pledging or selling the fine art.
117 Such identification shall include a photograph, an address, if available
118 on the identification, and an identifying number, including, but not
119 limited to, date of birth. No fine art secured lender shall enter into any
120 pledge or purchase transaction with a minor unless such minor is
121 accompanied by such minor's parent or guardian.

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

149 person designated by them. Any state police officer or municipal
150 police officer who performs such an examination may require any
151 employee on the premises to provide proof of the employee's identity.
152 All records maintained pursuant to this section shall be retained by the
153 fine art secured lender for not less than two years.

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

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

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

182 who deposits, pledges or sells such fine art a fee for such
183 memorandum or note, the processing and recording of the transaction,
184 the storage of the fine art, any insurance for the fine art and any
185 appraisal of the fine art. Each such fine art secured lender shall pay for
186 any fine art received by deposit, pledge or purchase only by check,
187 draft, wire or money order and shall not pay cash for any such fine art
188 except when the fine art secured lender cashes a check, draft or money
189 order for the person who is depositing, pledging or selling the fine art.
190 When the fine art secured lender cashes a check, draft or money order,
191 such fine art secured lender shall require proof of the identity of the
192 person presenting the check, draft or money order in accordance with
193 subsection (a) of section 3 of this act.

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

198 (c) Each check, draft or money order used to pay for fine art
199 received by a fine art secured lender shall contain the number or
200 numbers associated with such fine art in the record keeping system
201 maintained in accordance with section 3 of this act. Whenever payment
202 is made by check, the fine art secured lender shall retain the electronic
203 copy of such check or other record issued by the financial institution
204 that processed such check, and such copy or record shall be subject to
205 inspection pursuant to section 3 of this act as part of such record
206 keeping system. No fine art secured lender shall cash any check, draft
207 or money order issued by such fine art secured lender in an amount in
208 excess of one thousand dollars and no person shall structure any
209 transaction or transactions to avoid this prohibition. Any transaction or
210 transactions between a fine art secured lender and the same party
211 within a twenty-four-hour period shall be aggregated and considered a
212 single transaction for the purposes of this subsection.

213 Sec. 5. (NEW) (*Effective October 1, 2012*) Each fine art secured lender
214 shall submit quarterly to the licensing authority a sworn statement of

215 his or her transactions, describing the fine art received and
216 summarizing the nature and terms of each transaction. Such statement
217 shall be in an electronic format prescribed by the licensing authority.
218 The licensing authority may grant an exemption from the requirement
219 of submitting such statement in electronic format for good cause
220 shown. Each fine art secured lender shall maintain a written record of
221 the name and residence address and a description of each person from
222 whom the fine art was received and shall make such written record
223 available to law enforcement authorities upon request.

224 Sec. 6. (NEW) (*Effective October 1, 2012*) Whenever property is seized
225 from the place of business of a fine art secured lender by a law
226 enforcement officer, such officer shall give the fine art secured lender a
227 duly signed receipt for the fine art containing a case number, a
228 description of the fine art, the reason for the seizure, the name and
229 address of the officer, the name and address of the person claiming a
230 right to the fine art prior to the fine art secured lender and the name of
231 the fine art secured lender. If the fine art secured lender claims an
232 ownership interest in such fine art, he or she may request the return of
233 such fine art by filing a request for such fine art with the law
234 enforcement agency in accordance with the provisions of section 54-
235 36a of the general statutes. If the person who deposited, pledged or
236 sold any fine art received by a fine art secured lender is convicted of
237 any offense arising out of such fine art secured lender's acquisition,
238 retention or disposition of the fine art and such fine art secured lender
239 suffered an economic loss as a result of such offense, the court, at the
240 time of sentencing, may order restitution to such fine art secured
241 lender pursuant to subsection (c) of section 53a-28 of the general
242 statutes and such order may be enforced in accordance with section
243 53a-28a of the general statutes.

244 Sec. 7. (NEW) (*Effective October 1, 2012*) (a) Any person who wilfully
245 engages in the business of a fine art secured lender, unless licensed
246 according to law, or after notice that his or her license has been
247 suspended or revoked, shall be guilty of a class D felony.

248 (b) Any person who wilfully violates any provision of sections 1 to
 249 6, inclusive, of this act for which no other penalty is provided shall be
 250 guilty of a class A misdemeanor.

251 Sec. 8. (NEW) (*Effective October 1, 2012*) The provisions of sections 1
 252 to 7, inclusive, of this act shall not apply to any bank, out-of-state bank
 253 or any affiliate of a bank or out-of-state bank, as such terms are defined
 254 in section 36a-2 of the general statutes."

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