

SALES OF FINE ART (EXCERPT)
Act 121 of 1970

442.322 Warranties by art merchant; written instrument; effect of furnishing name of artist; negation or limitation of warranty; construing degree of authenticity of authorship.

Sec. 2. Any provision in any other law to the contrary notwithstanding:

(a) If an art merchant, in selling or exchanging a work of fine art, furnishes to a buyer of the work who is not an art merchant, a written instrument which, in describing the work, identifies it with an author or authorship, the description is presumed to be part of the basis of the bargain and creates an express warranty of the authenticity of the authorship as of the date of the sale or exchange. However, if an art merchant furnishes the name of an artist pursuant to section 7 or 8 of the art multiples sales act, the art merchant for purposes of that information is bound by this section, whether or not the purchaser is an art merchant. The warranty is not negated or limited because the art merchant in the written instrument did not use formal words such as "warrant" or "guarantee", because he or she did not have a specific intention or authorization to make a warranty, or because any statement relevant to authorship is, or purports to be, or is capable of being merely the art merchant's opinion.

(b) In construing the degree of authenticity of authorship warranted, due regard shall be given to the terminology used in describing the authorship and the meaning accorded to the terminology by the customs and usage of the trade at the time and in the locality where the sale or exchange took place. A written instrument delivered pursuant to a sale which took place in this state which, in describing the work, states, for example:

(i) That the work is by a named author or has a named authorship, without any other limiting words, means, unequivocally, that the work is by the named author or has the named authorship.

(ii) That the work is attributed to a named author means a work of the period of the author, attributed to the author, but not with certainty by the named author.

(iii) That the work is of the school of a named author means a work of the period of the author, by a pupil or close follower of the author but not by the author.

History: 1970, Act 121, Eff. Jan. 1, 1971;—Am. 1987, Act 54, Eff. Dec. 9, 1987.