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Senate Bill 55 (as enrolled) (Public Act 54 of 1987)

Senate Bill 56 (as enrolled) (Public Act 53 of 1987)

Sponsor: Senator Jack Faxon

Senate Committee: Judiciary

House Committee: Judiciary

Date Completed: 7-31-87

RATIONALE

Public Act 121 of 1970, which regulates the sale of artworks by art dealers to consumers, is considered to be of limited effectiveness in regulating the sale of art multiples. The Act applies to paintings, drawings, or works of graphic art, and provides that a dealer's statement as to the authorship of a work of art serves as an express warranty of that authorship.

Art multiples, such as photography, lithographs, woodblock prints, serigraphs (silkscreen prints), or other objects of visual art, are among the most marketable of art works. They are traded widely among art dealers and, because they are reasonably priced, are popular with consumers of moderate means. The true value of an art multiple depends on much more than its authorship. A lithograph by an accomplished artist, for example, may be worth a great deal more if it is one of a limited edition in which each copy is numbered and individually signed by the artist. An art multiple is worth less if it is unnumbered, or if the artist's signature is in the master and automatically reproduced with each impression. A photographic reproduction of the same work may have only the value of poster art. In order to estimate the true dollar value of an art multiple, an art dealer or art consumer must know a good deal more than the artist's name as provided in Public Act 121 of 1970.

The Act also is limited in that it protects only sales by art dealers to consumers and it provides no protection for art dealers, who must rely on the information given them by other art dealers or by artists. The Michigan Law Revision Commission has recommended that this State adopt legislation to ensure that purchasers of art multiples would be informed of details that may affect the value of art multiples.

CONTENT

Senate Bill 55 would amend Public Act 121 of 1970 to incorporate a section of the Art Multiples Sales Act (Public Act 40 of 1987) in regard to an art merchant's furnishing the name of an artist of certain art multiples.

Senate Bill 56 would amend the Uniform Commercial Code as it pertains to express warranties, to make that law consistent with the warranty provisions of the Art Multiples Sales Act and Public Act 121.

The bills are tie-barred, and would take effect six months after the enactment of the Art Multiples Sales Act. (The Art Multiple Sales Act was created to regulate the sale and consignment of art reproductions by art merchants. The Act requires art merchants to furnish certain information upon the sale, consignment, or advertisement of an art

multiple. Under the Act, the provision of the required information creates an express warranty as to each item of information, and art merchants may be held liable for the breach of such warranties.)

Senate Bill 55

Senate Bill 55 would amend Public Act 121 of 1970, which provides that if an art merchant, in selling or exchanging a work of fine art, gives a buyer who is not an art merchant a written instrument that, in describing the work, identifies it with any author or authorship (the creator of the work or the period, culture, source or origin with which the creation of the work is identified), the description is presumed to be part of the basis of the bargain and creates an express warranty of the authenticity of the authorship. Under the bill, however, if an art merchant furnished the name of an artist in regard to a multiple produced prior to 1950, the art merchant would be bound by that provision of Public Act 121 whether or not the purchaser were an art merchant.

The bill also provides that Public Act 121 would not apply, and the Art Multiples Sales Act would apply, to a right, liability, or obligation prescribed by the Art Multiples Sales Act, unless the Act provides otherwise.

MCL 442.322 and 442.324

Senate Bill 56

Senate Bill 56 would amend the Uniform Commercial Code to make an exception to the provision that the creation of an express warranty by a seller does not require the seller to use formal words, such as "warranty" or "guarantee", or to have a specific intention to make a warranty, but a statement purporting to be merely the seller's opinion or commendation of the goods does not create a warranty. Under Senate Bill 56, that section would apply except as provided in the Art Multiples Sales Act and in Public Act 121 of 1970 (which Senate Bill 55 would amend). Under both of those proposals, an art merchant's express warranty would not be negated or limited because the warranty was or was purported to be merely the seller's opinion.

MCL 440.2313

FISCAL IMPACT

The bills would have no fiscal impact on State or local government.

S.B. 55 & 56 (7-31-87)

ARGUMENTS

Supporting Argument

v: The bills, in conjunction with the Art Multiple Sales Act, would protect purchasers in transactions in which detailed specialized information is of intrinsic importance to the value of the item being purchased. The bills also would take into account the problems of the sellers of art multiples, who are frequently charitable organizations that are not professionally equipped to do more than rely upon representations of dealers. Because it is more difficult to gather information on older works, less information would be required about them, and the seller would be able to declare honest ignorance of specific items of information. The bills would be of value not only to art merchants but also to the great many relatively uninformed purchasers of art multiples.

Supporting Argument

The idea of enacting a law in Michigan to govern the sale of art multiples originated as a 1981 recommendation of the Michigan Law Revision Commission. In addition, the package represents a uniform state law on the sale of art multiples. Upon passage of the bills, Michigan again would follow the lead of New York, which Michigan previously followed in enacting Public Act 121 of 1970.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.