

Act No. 54  
Public Act of 1987  
Approved by the Governor  
June 21, 1987  
Filed by the Secretary of State  
June 22, 1987

**STATE OF MICHIGAN  
84TH LEGISLATURE  
REGULAR SESSION OF 1987**

Introduced by Senators Faxon and Sederburg

# **ENROLLED SENATE BILL No. 55**

AN ACT to amend sections 2 and 4 of Act No. 121 of the Public Acts of 1970, entitled "An act to provide for the creation and negation of express warranties in the sales of works of fine art," being sections 442.322 and 442.324 of the Michigan Compiled Laws.

*The People of the State of Michigan enact:*

Section 1. Sections 2 and 4 of Act No. 121 of the Public Acts of 1970, being sections 442.322 and 442.324 of the Michigan Compiled Laws, are amended to read as follows:

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.

Sec. 4. (1) The rights and liabilities created by this act are in addition to and not in substitution, exclusion, or displacement of other rights and liabilities provided by law, including the law of principal and agent, except where the construction would, as a matter of law, be unreasonable.

(2) An art merchant who, as buyer, is excluded from obtaining the benefits of an express warranty under this act shall not be deprived of the benefits of any other provision of law.

(3) An art merchant whose warranty of authenticity of authorship was made in good faith shall not be liable for damages beyond the return of the purchase price which the art merchant received.

(4) This act shall not apply, and the art multiples sales act shall apply, to a right, liability, or obligation prescribed by the art multiples sales act, except as provided by that act.

Section 2. This amendatory act shall not take effect unless all of the following bills of the 84th Legislature are enacted into law:

(a) House Bill No. 4066.

(b) Senate Bill No. 56.

Section 3. This amendatory act shall take effect 6 months after House Bill No. 4066 of the 84th Legislature is enacted into law.

This act is ordered to take immediate effect.

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Secretary of the Senate.

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Clerk of the House of Representatives.

Approved.....

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Governor.