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CIVIL CODE - CIV

DIVISION 3. OBLIGATIONS [1427 - 3273.69] (*Heading of Division 3 amended by Stats. 1988, Ch. 160, Sec. 14.)*

PART 4. OBLIGATIONS ARISING FROM PARTICULAR TRANSACTIONS [1738 - 3273.69] (*Part 4 enacted 1872.)*

TITLE 1. CONSIGNMENT OF FINE ART [1738 - 1738.9] (*Heading of Title 1 renumbered from Title 1.1 by Stats. 1987, Ch. 56, Sec. 16.)*

CHAPTER 2. General Provisions [1738.5 - 1738.9] (*Chapter 2 added by Stats. 1975, Ch. 953.)*

1738.5. Notwithstanding any custom, practice or usage of the trade to the contrary, whenever an artist delivers or causes to be delivered a work of fine art of the artist's own creation to an art dealer in this state for the purpose of exhibition or sale, or both, on a commission, fee or other basis of compensation, the delivery to and acceptance of such work of fine art by the art dealer shall constitute a consignment, unless the delivery to the art dealer is pursuant to an outright sale for which the artist receives or has received full compensation for the work of fine art upon delivery.

(*Added by Stats. 1975, Ch. 953.*)

1738.6. A consignment of a work of fine art shall result in all of the following:

- (a) The art dealer, after delivery of the work of fine art, shall constitute an agent of the artist for the purpose of sale or exhibition of the consigned work of fine art within the State of California.
- (b) The work of fine art shall constitute property held in trust by the consignee for the benefit of the consignor, and shall not be subject to claim by a creditor of the consignee.
- (c) The consignee shall be responsible for the loss of, or damage to, the work of fine art.
- (d) The proceeds from the sale of the work of fine art shall constitute funds held in trust by the consignee for the benefit of the consignor. Such proceeds shall first be applied to pay any balance due to the consignor, unless the consignor expressly agrees otherwise in writing.

(*Added by Stats. 1975, Ch. 953.*)

1738.7. A work of fine art received as a consignment shall remain trust property, notwithstanding the subsequent purchase thereof by the consignee directly or indirectly for the consignee's own account until the price is paid in full to the consignor. If such work is thereafter resold to a bona fide purchaser before the consignor has been paid in full, the proceeds of the resale received by the consignee shall constitute funds held in trust for the benefit of the consignor to the extent necessary to pay any balance still due to the consignor and such trusteeship shall continue until the fiduciary obligation of the consignee with respect to such transaction is discharged in full.

(*Added by Stats. 1975, Ch. 953.*)

1738.8. Any provision of a contract or agreement whereby the consignor waives any provision of this title is void.

(*Added by Stats. 1975, Ch. 953.*)

1738.9. This title shall not apply to a written contract executed prior to the effective date of this title, unless either the parties agree by mutual written consent that this title shall apply or such contract is extended or renewed after the effective date of this title.

The provisions of this title shall prevail over any conflicting or inconsistent provisions of the Commercial Code affecting the subject matter of this title.

(*Added by Stats. 1975, Ch. 953.*)

