

## CHAPTER 16

## THE PERCENT FOR ART ACT

**§451. Purpose**

Recognizing the need to enhance culture and the arts and to encourage the development of artists, it is the intent of the Legislature to establish the Percent for Art Program to provide funds for and authorize the acquisition of works of art for certain public buildings and public facilities. [PL 1989, c. 912, §1 (AMD).]

## SECTION HISTORY

PL 1979, c. 525 (NEW). PL 1987, c. 469, §§1, 11 (AMD). PL 1989, c. 912, §1 (AMD).

**§452. Definitions**

As used in this chapter, unless the context indicates otherwise, the following terms shall have the following meanings. [PL 1979, c. 525 (NEW).]

**1. Architect.** "Architect" means the person or firm retained by the contracting agency to design the project to which the 1% provision of this chapter applies. [PL 1979, c. 525 (NEW).]

**2. Artist.** "Artist" means a practitioner in the arts, generally recognized as a professional by critics and peers, who produces works of art and who is not the architect or an employee of the architectural firm retained by the contracting agency. [PL 1989, c. 912, §2 (AMD).]

**3. Commission.** "Commission" means the Maine Arts Commission. [PL 1985, c. 763, Pt. A, §82 (AMD).]

**3-A. Construction.** "Construction" means the construction or renovation of a public building or public facility, the cost of which is at least \$100,000, but does not include repairs or minor alterations. In its rulemaking and decisions regarding construction projects governed by this Act, the commission is guided by the determinations of the Director of the Bureau of General Services. [PL 2011, c. 691, Pt. B, §26 (AMD).]

**4. Contracting agency.**

A. "Contracting agency" means the agency of State Government to which funds have been appropriated or allocated by the Legislature for the construction of any public building or other public facility. In the case of school construction projects, the contracting agency shall be the governance body of the school administrative unit. [PL 1987, c. 469, §3 (AMD).]

B. "Contracting agency" does not include municipalities and special purpose quasi-municipal districts such as, but not limited to, sewer districts and water districts. [PL 1979, c. 525 (NEW).] [PL 1987, c. 469, §3 (AMD).]

**5. Public building or public facility.** "Public building" or "public facility" means any building or facility which is to be constructed in part or totally with funds from any source appropriated or allocated by the Legislature, including any school construction project approved for state funding by the State Board of Education, and which is intended for the use of the general public.

A. If only part or parts of the building or facility are for the use of the public, "public building" or "public facility" includes only that part or those parts designed for the use of the public. The method of cost allocation to the identifiable part or parts shall be determined by a generally accepted method

of cost allocation, provided that the allocated cost for that part or those parts shall exceed \$100,000. [PL 1987, c. 469, §4 (RPR).]

B. "Public building" or "public facility" does not include highways, sheds, warehouses, buildings of a temporary nature. [PL 1987, c. 469, §4 (RPR).]

C. A school construction project or any building or facility which is part of the project is subject to this Act only upon the affirmative vote of the school board of the school administrative unit. [PL 1987, c. 469, §4 (RPR).]  
[PL 1987, c. 469, §4 (RPR).]

**5-A. School construction project.** "School construction project" means a project as defined in Title 20-A, section 15901, subsection 4.  
[PL 1987, c. 469, §5 (NEW).]

**6. Works of art.** "Works of art" means any of the following original creations of art:

A. Sculpture in any material or combination of materials; [PL 1987, c. 469, §6 (AMD).]

B. Painting; [PL 1987, c. 469, §6 (AMD).]

C. Graphic arts, printmaking and drawing; [PL 1979, c. 525 (NEW).]

D. [PL 1987, c. 469, §6 (RP).]

E. Photography, video or electronic media; [PL 1989, c. 912, §3 (AMD).]

F. Crafts in clay, fiber and textiles, wood, metal, plastics and other materials; and [PL 1987, c. 469, §6 (AMD).]

G. [PL 1987, c. 469, §6 (RP).]

H. Mixed or conceptual media, or any combination of forms or media, including collage. [PL 1989, c. 912, §3 (AMD).]  
[PL 1989, c. 912, §3 (AMD).]

#### SECTION HISTORY

PL 1979, c. 525 (NEW). PL 1985, c. 763, §A82 (AMD). PL 1987, c. 469, §§2-6,11 (AMD). PL 1989, c. 912, §§2,3 (AMD). PL 2011, c. 691, Pt. B, §26 (AMD).

#### §453. Expenditure for and location of art

**1. Amount; gifts and donations.** A contracting agency, except a school administrative unit, shall expend out of money appropriated or allocated by the Legislature for the construction of a public building or facility, except for a correctional facility, a minimum amount of 1% of the construction portion of the appropriation or allocation, for the purpose of acquiring, transporting and installing works of art. School units that have decided to participate in the Percent for Art Program shall expend a minimum amount of 1% of the cost of the eligible school construction project or of any building or facility that is part of an eligible project or \$50,000, whichever is less.

A. [PL 1987, c. 469, §7 (RP).]

Donations and gifts to the contracting agency may be used to offset the minimum amount identified in this subsection. The value of works of art received as a donation or a gift must be determined by the commission.

[PL 1999, c. 706, §8 (AMD).]

**2. Location of works of art.** Works of art may be included as an integral part of the structure of the building or facility, may be attached to the structure or may be detached within or outside of the structure.

[PL 1979, c. 525 (NEW).]

## SECTION HISTORY

PL 1979, c. 525 (NEW). PL 1987, c. 469, §§7, 11 (AMD). PL 1989, c. 912, §4 (AMD). PL 1999, c. 706, §8 (AMD).

**§454. Contracts for works of art**

For purposes of this chapter, expenditures for works of art shall be contracted for separately from all other items in any original construction of any public building or facility. Contracts shall be made according to section 457. [PL 1979, c. 525 (NEW).]

## SECTION HISTORY

PL 1979, c. 525 (NEW).

**§455. Determination of amount for acquisition of art**

The commission, in consultation with the Bureau of General Services, the Department of Education, the Office of Facilities within the University of Maine System or the Maine Community College System, whichever has budgetary authority over the project, shall determine the minimum amount to be made available for the purchase of art for each public building or facility. [PL 1993, c. 435, §8 (AMD); PL 2003, c. 20, Pt. OO, §2 (AMD); PL 2003, c. 20, Pt. OO, §4 (AFF).]

## SECTION HISTORY

PL 1979, c. 525 (NEW). PL 1989, c. 912, §5 (AMD). PL 1993, c. 435, §8 (AMD). PL 2003, c. 20, §OO2 (AMD). PL 2003, c. 20, §OO4 (AFF).

**§456. Duties of the contracting agency**

Upon selection of an architect for any project, the contracting agency shall: [PL 1979, c. 525 (NEW).]

1. **Notify.** Notify the architect of this chapter; [PL 1979, c. 525 (NEW).]
2. **Commission.** Notify the commission of the selection of the architect and the details of the project; [PL 1979, c. 525 (NEW).]
3. **Consultation.** Consult with the commission about the amount to be expended for works of art; and [PL 1979, c. 525 (NEW).]
4. **Selection of artist and works of art.** Select the artist and the works of art in accordance with the rules established under section 458, and in consultation with the commission. [PL 1979, c. 525 (NEW).]

## SECTION HISTORY

PL 1979, c. 525 (NEW).

**§457. Duties of commission**

The commission shall: [PL 1989, c. 912, §6 (NEW).]

1. **Consult.** Consult with the architect and contracting agency about any administrative costs or design services required in connection with the selection of works of art; [PL 1989, c. 912, §6 (RPR).]
2. **Procedures for participation of architect.** Advise the Bureau of General Services, the Department of Education, the Office of Facilities within the University of Maine System and the Maine

Community College System concerning procedures for participation and compensation of the architect in connection with the acquisition of works of art under this chapter; [PL 1993, c. 435, §9 (AMD); PL 2003, c. 20, Pt. OO, §2 (AMD); PL 2003, c. 20, Pt. OO, §4 (AFF).]

**3. Contracting agency.** Advise the contracting agency; [PL 1989, c. 912, §6 (NEW).]

**4. Selection.** Approve the process used by the contracting agency in selection of the artist or works of art. If the commission does not approve the process used to select the artist or works of art, then the contracting agency shall use another selection process in accordance with the procedure authorized in section 456, subsection 4; [PL 1989, c. 912, §6 (NEW).]

**5. Acquisition of art.** Review the design, execution, placement and acceptance of any works of art that are, or are intended to be, acquired under this chapter; and [PL 1989, c. 912, §6 (NEW).]

**6. Standards for maintenance.** Adopt standards for the maintenance, conservation, relocation and transfer of ownership of works of art acquired under this chapter. [PL 1989, c. 912, §6 (NEW).]

#### SECTION HISTORY

PL 1979, c. 525 (NEW). PL 1989, c. 912, §6 (RPR). PL 1993, c. 435, §9 (AMD). PL 2003, c. 20, §OO2 (AMD). PL 2003, c. 20, §OO4 (AFF).

#### §458. Rules and regulations

The commission shall establish rules in accordance with the procedures set forth in the Maine Administrative Procedure Act, Title 5, section 8051, et seq., to carry out the purposes of this chapter. These rules shall include, but not be limited to, the following: [PL 1979, c. 525 (NEW).]

**1. Selection.** Procedures for the selection of artists and works of art; [PL 1979, c. 525 (NEW).]

**2. Standards.** Standards for the artist and works of art which may be eligible for selection; [PL 1987, c. 469, §8 (AMD).]

**2-A. Maintenance.** Standards for the maintenance, conservation, relocation and transfer of ownership of works of art acquired under this chapter; [PL 1989, c. 912, §7 (NEW).]

**3. Contract procedures.** Procedures for contracting with artists for works of art ; and [PL 1989, c. 912, §8 (AMD).]

**4. Administrative costs.** Administrative costs associated with the acquisition of works of art which are eligible to be included as part of the amount allocated in section 453, subsection 1. [PL 1987, c. 469, §9 (NEW).]

#### SECTION HISTORY

PL 1979, c. 525 (NEW). PL 1987, c. 469, §§8,9,11 (AMD). PL 1989, c. 912, §§7,8 (AMD).

#### §459. Administrative costs

Eligible administrative costs incurred by the contracting agency that are associated with the acquisition of works of art shall be included as part of the amount allocated to section 453, subsection 1, for works of art. [PL 1989, c. 912, §9 (AMD).]

#### SECTION HISTORY

PL 1979, c. 525 (NEW). PL 1987, c. 469, §§10, 11 (AMD). PL 1989, c. 912, §9 (AMD).

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