

SENATE No. 1866

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act establishing pilot artist enterprise zones..

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. As used in this section, the following words shall, unless the context clearly
2 requires otherwise, have the following meanings:-

3 “Art dealer”, a person engaged in the business of selling works of art, other than a person
4 exclusively engaged in the business of selling goods at public auction.

5 “Artist”, the person who creates a work of art.

6 “Artist Enterprise Zone”, an economic development zone in a city or town, to be
7 designated by the mayor and the city council in the case of a city, or by the board of selectmen in
8 the case of a town, for the economic stimulus of works of arts.

9 “Department”, the department of revenue.

10 “On-location sale”, a sale transacted in-person, not by telephonic or other electronic
11 means, within an Artist Enterprise Zone.

12 “Work of art”, an original and creative work, whether written, composed or executed for
13 ‘one-of-a-kind limited’ production and which falls into 1 of the following categories: a painting;
14 sculpture; drawing; work of graphic art, including an etching, lithograph, offset print, silk screen,
15 or work of graphic art of like nature; a work of calligraphy; or a work in mixed media including
16 a collage, assemblage, or any combination of the foregoing art media; a book or other writing; a
17 play or the performance of said play; a musical composition or the performance of said
18 composition; traditional and fine crafts; the creation of a film or the acting within said film; the
19 creation of a dance or the performance of said dance; any product generated as a result of any of
20 the above categories; provided that a “work of art” shall not apply to any piece or performance
21 created or executed for industry oriented or related production.

22 SECTION 2. There are hereby established a Pilot Artist Enterprise Zone in the cities of
23 Pittsfield, Fitchburg and Lowell. No later than July 1, 2010, the mayor and city council for the
24 cities of Pittsfield, Fitchburg and Lowell are authorized to designate a specific area located in the
25 “downtown” as the Artist Enterprise Zone.

26 SECTION 3. Notwithstanding section 2 of chapter 64H or any other provision of General
27 or special law to the contrary, in tax years 2009 and 2010 no excise shall be imposed upon on-
28 location sales of works of art. The department shall establish guidelines regarding the
29 implementation of this section and shall require the submission of evidence relating to the
30 publication, production or creation of the works as may be deemed necessary by the department
31 for the purposes of the exemption. The department may also require an annual submission of an
32 accounting of the numbers of works sold, the type of work sold and the date of the sale. Failure
33 to file this report may terminate an individual’s eligibility for the exemption.

34 SECTION 4. Notwithstanding sections 3 and 4 of chapter 62 or any other provision of
35 General or special law to the contrary, in tax years 2009 and 2010 an artist to whom this section
36 applies and who duly makes a claim to the department in that behalf shall, subject to paragraph
37 (2) below, be entitled to have the profits or gains arising to him or her from the publication,
38 production or sale of a work of art or works of art be taken as a modification reducing
39 Massachusetts taxable income.

40 (2) The modification authorized by this section shall apply to the year in which the profit
41 or gain from the publication, production or sale of a work of art is realized. The total
42 modifications allowed in any taxable year shall not exceed \$100,000 for any artist.

43 (3) This section shall only apply to an artist who is a resident of an Artist Enterprise
44 Zone.

45 (4) The department shall establish guidelines regarding the implementation of this section
46 and shall require the submission of evidence relating to the publication, production or creation of
47 the works as may be deemed necessary by the department for the purposes of the exemption.
48 The department may also require an annual submission of an accounting of the numbers of
49 works sold, the type of work sold and the date of the sale. Failure to file this report may
50 terminate an artist's eligibility for the exemption.