

Part 4 Utah Percent-for-Art Act

9-6-401 Short title.

This part is known as the "Utah Percent-for-Art Act."

Renumbered and Amended by Chapter 241, 1992 General Session

9-6-402 Purpose.

This part is designed to:

- (1) establish a program which administers that portion of appropriations for capital expenditures which is set aside:
 - (a) for the acquisition of works of art used for public buildings; and
 - (b) to facilitate public art installations as described in Section 9-6-410;
- (2) enhance the quality of life in the state by placing art of the highest quality in public spaces where it is seen by the general public;
- (3) promote and preserve appreciation for and exposure to the arts; and
- (4) foster cultural development in the state and encourage the creativity and talents of its artists and craftspeople.

Amended by Chapter 368, 2024 General Session

9-6-403 Definitions.

As used in this part:

- (1) "Artist" means a practitioner in the visual arts, generally recognized by critics and the artist's peers as a professional who is committed to producing high quality work on a regular basis, and who is not the project architect or a member of the project's architectural firm.
- (2) "Acquired or constructed" means acquired, constructed, reconstructed, restored, enlarged, improved, renovated, repaired, replaced, equipped, or furnished in whole or in part with state funds.
- (3) "Contracting agency" means the state agency which is responsible for supervising the principal user of a state building or facility.
- (4) "Public art installation" means a work of art:
 - (a) owned by a:
 - (i) county of the first class; or
 - (ii) municipality or metro township in a county of the first class;
 - (b) created by an artist, with a preference for a Utah artist;
 - (c) located in a public place where the county of the first class, municipality in a county of the first class, or metro township in a county of the first class has jurisdiction; and
 - (d) that is intended to be a permanent fixture in the public place.
- (5) "Principal user" means the department, board, commission, institution, or agency of the state for the principal use of which a state building or facility is acquired or constructed.
- (6)
 - (a) "Program" means the Percent-for-Art Program created in this part.
 - (b) "Program" does not mean the Public Art Installation Initiative created in Section 9-6-410.
- (7) "Project" means the project whereby state buildings or facilities are acquired or constructed.
- (8)

- (a) "State building or facility" means a state building, permanent structure, facility, park, or appurtenant structure thereof, wholly or partially enclosed, which includes, but is not restricted to a space or facility used or to be used for carrying out the functions of a department, board, commission, institution, or agency of the state, including offices, hearing or meeting rooms, auditoriums, libraries, courtrooms, classrooms, workshops, laboratories, eating or sleeping facilities, or highway rest areas.
 - (b) "State building or facility" does not include motor pools, heating plants, sheds, sewers, parking lots, bridges, highways, or buildings used solely for storage or warehousing.
- (9) "Utah artist" means:
- (a) an individual who produces paintings, drawings, photos, sculptures, or similar works; and
 - (b) who has:
 - (i) lived in Utah a minimum of ten years; or
 - (ii) a primary residence in the state.
- (10) "Work of art" or "works of art" means any form of original creation of visual art including, but not restricted to any sculpture, bas relief, high relief, mobile, fountain, painting, graphic, print, lithograph, etching, embossing, drawing, mural, mosaic, supergraphic, fresco, photograph, ceramic, fiber, mixed media, or combination of forms.

Amended by Chapter 368, 2024 General Session

9-6-404 Creation of program -- Use of appropriations.

- (1) A Percent-for-Art Program shall be administered by the division.
- (2)
 - (a)
 - (i) Before January 1, 2035, an appropriation received by or available to the director under Subsection 63A-5b-609(5) for a new state building or facility that is not located in a county of the first class shall be used to acquire existing works of art or to commission the creation of works of art placed in or at appropriate state buildings or facilities as determined by the division.
 - (ii) Beginning January 1, 2035, any appropriation received by or available to the director shall be used to acquire existing works of art or to commission the creation of works of art placed in or at appropriate state buildings or facilities as determined by the division.
 - (b) For appropriations annually received by or available to the director under Subsection 63A-5b-609(5) for a new state building or facility that is located in a county of the first class:
 - (i) eighty percent shall be used to acquire existing works of art or to commission the creation of works of art placed in or at appropriate state buildings or facilities as determined by the division; and
 - (ii) twenty percent shall be used to support the Public Art Installation Initiative described in Section 9-6-410.
 - (c) Any unexpended funds remaining at the end of the fiscal year shall be nonlapsing and not revert to the General Fund.

Amended by Chapter 5, 2024 Special Session 3

9-6-405 Procedures, guidelines, and rules.

- (1) The division shall follow these guidelines in administering the program:
 - (a) Works of art shall be acquired under the program for use only with respect to those buildings or facilities that the division determines have significant public use or access, especially

where the design and technical construction of the building or facility lend themselves to works of art. All funds set aside and administered by the program from appropriations for any state building or facility of which any part is obtained from the issuance of bonds shall be used only to acquire works of art that will be placed in or at, and remain a part of, that building or facility, to the extent necessary to preserve the federal income tax exemption otherwise allowed for interest paid on the bonds.

- (b) The goal of the division in administering the program is to fairly distribute works of art throughout the various social, economic, and geographic communities of the state.
 - (c) The division:
 - (i) shall give first preference to Utah artists; and
 - (ii) may consider artists from other states and give preference to artists from other states that have similar percent-for-art programs and demonstrate a reciprocal preference for Utah artists.
 - (d) The division shall involve the director of the Division of Facilities Construction and Management, or the director's designee, and the project architect in the process of screening or selecting works of art or artists to create works of art for each project and shall involve in that process representatives from the project's principal user or contracting agency, the community in which the project is located, and the art profession. The project's principal user or contracting agency shall have representation at least equal to any other entity on the selection committee, as designated by the project's president or director. Any selection and placement of art shall be by a majority decision of the user agency representatives on the committee and a majority decision of the entire committee. The selection and placement shall be approved by the president or director of the principal user.
 - (e) Any relocation of art placed under this program shall be done with the participation from the division and the Division of Facilities Construction and Management and with approval from the president or director of the principal user.
 - (f) The costs of administering the program and conserving and maintaining all works of art placed under the program are limited to 15% of the funds deposited in the Utah Percent-for-Art Account.
- (2) The division shall adopt procedures, guidelines, and rules as necessary to implement this chapter and administer the program.

Amended by Chapter 261, 2020 General Session

9-6-406 Director to enter into contracts.

The director may enter into contracts on behalf of the division to acquire works of art and to commission artists for the creation of works of art as selected by the division or committees established by the division, and may sue and be sued in the name of the division upon these contracts.

Renumbered and Amended by Chapter 241, 1992 General Session

9-6-407 Title to work of art vests in the name of the state -- Title subject to restrictions and interests.

- (1) Title to a work of art acquired by or created for the program vests upon its completion, installation, and final acceptance in the division in the name of the state.
- (2) Title to a work of art acquired from appropriations for any state building or facility of which any part is obtained from the issuance of bonds, and placed in or at that building or facility, is

subject to the same restrictions and interests as title to that building or facility, to the extent necessary to preserve the federal income tax exemption otherwise allowed for interest paid on those bonds.

Renumbered and Amended by Chapter 241, 1992 General Session

9-6-408 Division responsible for maintenance and security.

The division is responsible, in cooperation with the contracting agency, for the conservation, maintenance, and security of all works of art placed in or at each state building or facility under the program.

Renumbered and Amended by Chapter 241, 1992 General Session

9-6-409 Rights of artist commissioned by program.

An artist who is commissioned by the program to create a work of art has the following rights with respect to that work of art:

- (1) all rights secured to the artist under federal copyright laws;
- (2) the right to claim authorship of the work of art;
- (3) the right to photographic reproduction of the work of art;
- (4) the right of first refusal:
 - (a) to conduct all repair and conservation work on the work of art in accordance with accepted principles of professional conservation; and
 - (b) to purchase the work of art if the state decides to sell it; and
- (5) the right to deny further association of the artist's name with or authorship of the work of art if conservation or repair work is done by a person other than the artist, which in the opinion of the artist damages its integrity.

Renumbered and Amended by Chapter 241, 1992 General Session

9-6-410 Public Art Installation Initiative.

- (1) As used in this section:
 - (a) "Applicant" means:
 - (i) a county of the first class;
 - (ii) a municipality in a county of the first class; or
 - (iii) a metro township in a county of the first class.
 - (b)
 - (i) "Local funds" means money in the possession of a county, municipality, or metro township through local revenue generation, private donation, or federal or philanthropic grant.
 - (ii) "Local funds" does not mean money from a state grant.
- (2) There is created a Public Art Installation Initiative to be administered by the division.
- (3) Within available funds, the division may award an applicant a dollar-for-dollar match on the purchase or commission of a public art installation as described in this section.
- (4) Before the division may offer a dollar-for-dollar match as described in Subsection (3), an applicant shall provide the division with:
 - (a) documentation of the local funds dedicated to the proposed public art installation;
 - (b) a description or rendering of the proposed public art installation;
 - (c) a copy of any contractual agreement the applicant has with the proposed artist, or a template contractual agreement to be offered to an artist; and

- (d) any other information requested by the division.
- (5) The division shall establish by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
 - (a) an application process;
 - (b) a process to approve or deny an application, in accordance with the purposes described in Section 9-6-402; and
 - (c) a process to prioritize applications in the event of limited funding.
- (6) The division:
 - (a) may solicit and receive a donation to further the objectives of this section; and
 - (b) shall deposit any donation received to further the objectives of this section and reserve the use of that donation for the Public Art Installation Initiative.
- (7) A donation under Subsection (6) may not supplant appropriations for the Public Art Installation Initiative as described in Subsection 9-6-404(2)(b).

Enacted by Chapter 368, 2024 General Session