

CONFERENCE COMMITTEE REPORT

HB 594

2020 Regular Session

Seabaugh

June 1, 2020

To the Honorable Speaker and Members of the House of Representatives and the Honorable President and Members of the Senate.

Ladies and Gentlemen:

We, the conferees appointed to confer over the disagreement between the two houses concerning House Bill No. 594 by Representative Seabaugh, recommend the following concerning the Reengrossed bill:

1. That the set of Floor Amendments by Senator Luneau (#1810) be rejected.
2. That the following amendments be adopted:

AMENDMENT NO. 1

On page 1, line 3, after "4625," and before "4627" insert "4626,"

AMENDMENT NO. 2

On page 1, at the beginning of line 4, delete "4626(3)" and insert "4626.1"

AMENDMENT NO. 3

On page 1, line 18, after "4625," and before "4627" insert "4626,"

AMENDMENT NO. 4

On page 1, at the beginning of line 20, delete "4626(3)" and insert "4626.1"

AMENDMENT NO. 5

On page 2, line 24, after "any," and before "disclose" delete "and"

AMENDMENT NO. 6

On page 2, at the end of line 25, change the period "." to a comma "," and insert "and disclose to the petitioning co-owners whether any costs associated with the sale will be paid to any person related to the petitioning co-owners within the fourth degree or a juridical entity in which the co-owner has a direct or indirect financial interest."

AMENDMENT NO. 7

On page 3, delete lines 20 through 27 in their entirety and insert the following:

"Art. 4626. Judgment ordering reimbursement or payment of amounts due co-owner out of proceeds of public sale

A judgment ordering the public sale of property to effect a partition under the provisions of this Chapter shall order, out of the proceeds of such sale, all of the following:

- (1) The reimbursement to a co-owner of the amount proven to be due ~~him~~ the co-owner for the payment of taxes on the property, and the expenses of preservation ~~thereof, and~~ of the property.

(2) The payment to a co-owner of the amount proven to be due ~~him~~ the co-owner by another co-owner who has received and retained the fruits and revenues of the property.

Art. 4626.1 Judgment ordering reimbursement or payment of amounts due co-owner and payment and allocation of costs of private sale out of proceeds of sale

A judgment ordering the private sale of property to effect a partition under the provisions of this Chapter shall order, out of the proceeds of such sale, all of the following:

(1) The reimbursement to a co-owner of the amount proven to be due the co-owner for the payment of taxes on the property and the expenses of preservation of the property.

(2) The payment to a co-owner of the amount proven to be due the co-owner by another co-owner who has received and retained the fruits and revenues of the property.

(3)(a) The payment of reasonable costs related to the sale, including real estate commissions, brokerage fees, appraisal costs, payments associated with the release of encumbrances and other customary closing costs, and the allocation of such costs to one or more co-owners.

(b) The court in rendering judgment shall consider whether the costs associated with the sale will be paid to any person related to the co-owners within the fourth degree or a juridical entity in which the co-owner has a direct or indirect financial interest."

Respectfully submitted,

Representative Alan Seabaugh

Senator Robert Mills

Representative Lawrence "Larry" Frieman

Senator W. Jay Luneau

Representative Gregory A. Miller

Senator John C. "Jay" Morris, III

 DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

CONFERENCE COMMITTEE REPORT DIGEST
HB 594
2020 Regular Session
Seabaugh
Keyword and oneliner of the instrument as it left the House

PROPERTY: Provides relative to partitions by private sale

Report rejects Senate amendments which would have:

1. Specify that costs paid to a person related to a co-owner within the fourth degree or a juridical entity in which the co-owner has a financial interest shall be allocated solely from the share of that co-owner.

Report amends the bill to:

1. Provide for judgments ordering the private sale of property to effect partition and to provide that the co-owner be reimbursed from the proceeds of the sale, payment of taxes, expenses of preservation, amount due to the co-owner for another co-owner's receipt and retention of fruits and revenues, and reasonable costs related to the sale.
2. Make technical changes to present law relative to public sales.
3. Remove addition to C.C.P. 4626(3) that provided for the costs paid to a person related to a co-owner being allocated solely from the share of the co-owner.

Digest of the bill as proposed by the Conference Committee

Present law (C.C. Art. 811) provides for court-ordered sale of property by public or private sale; however, if the parties do not agree to a private sale, the property is sold at public sale.

Proposed law (C.C. Art. 811) provides that the court may order a partition by private sale for absentee and nonconsenting co-owners.

Proposed law (C.C.P. Art. 4607) provides that if the partition is made at private sale without the consent of all co-owners, the sale cannot be for less than 2/3 the appraised property value.

Present law (C.C.P. Art. 4621) provides that for an absentee co-owner, a partition may be effected by licitation.

Proposed law (C.C.P. Art. 4621) retains present law and provides for partition by private sale.

Proposed law (C.C.P. Art. 4622) provides that a petition for partition by private sale shall describe the primary terms of the proposed sale, identify the proposed purchaser, if any, disclose whether the proposed purchaser is related to any co-owner, and disclose whether any costs associated with the sale are paid to a party related to any co-owner within the fourth degree or a juridical entity in which the co-owner has a financial interest in.

Proposed law (C.C.P. Art. 4624 and C.C.P. Art. 4625) amends present law by including partitions by private sale in the requirements of notice publication and trial.

Proposed law retains present law (C.C.P. Art. 4626) relative to public sales but makes technical changes.

Proposed law (C.C.P. Art. 4626.1) provides that judgments ordering the private sale of a property to effect a partition must order reimbursement to the co-owner of taxes, preservation expenses and the amount owed to him by another co-owner receiving and retaining fruits and revenues of the property. The judgment must also order that reasonable costs related to the sale including real estate commissions, brokerage fees, appraisal costs, encumbrance releases, and other customary closing costs, be allocated to one or more co-owners.

Proposed law (C.C.P. Art. 4627) provides for the effect of a judgment ordering a public sale also applies to private sales.

Proposed law (C.C.P. Art. 4629) provides for applicability to both partitions by licitation and by private sale.

Proposed law provides for an appointment of an attorney for incompetent parties for partitions by private sale.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends C.C. Art. 811 and C.C.P. Arts. 4607, 4621, 4622, 4624, 4625, 4626, 4627, 4629, and 4643; Adds C.C.P. Art. 4626.1)