
DIGEST

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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)