

RÉSUMÉ DIGEST

ACT 281 (HB 594)

2020 Regular Session

Seabaugh

Existing law (C.C. Art. 811) provides for the 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.

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

New 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.

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

New law (C.C.P. Art. 4621) provides for partition by private sale.

New 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.

New law (C.C.P. Art. 4624 and C.C.P. Art. 4625) includes partitions by private sale in the requirements of notice publication and trial.

New law (C.C.P. Art. 4626) makes technical changes.

New law (C.C.P. Art. 4626.1) provides that judgments ordering the private sale of a property shall order reimbursement to the co-owner for taxes, preservation expenses, and the amount owed to him by another co-owner receiving and retaining fruits and revenues of the property. The judgment shall 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.

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

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

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

Effective upon signature of governor (June 11, 2020).

(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)