

2026 Regular Session

HOUSE BILL NO. 668

BY REPRESENTATIVE MUSCARELLO

PROPERTY: Provides for the partition of property

1 AN ACT

2 To amend and reenact Civil Code Article 811 and Code of Civil Procedure Articles 4607,
3 4622(B), 4624, and 4625(A) and to enact Code of Civil Procedure Article 4607.1,
4 relative to the partition of property; to provide for form; to provide for
5 reimbursement; to provide for procedure; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. Civil Code Article 811 is hereby amended and reenacted to read as
8 follows:

9 Art. 811. Partition by licitation or by private sale

10 ~~A.~~ When the thing held in indivision is not susceptible to partition in kind,
11 the court shall decree a partition by licitation or, ~~as provided in Paragraph B of this~~
12 ~~Article,~~ by private sale and the proceeds shall be distributed to the co-owners in
13 proportion to their shares.

14 ~~B. In the event that one or more of the co-owners are absentees or have not~~
15 ~~consented to a partition by private sale, the court shall order a partition by private~~
16 ~~sale and shall give first priority to the private sale between the existing co-owners,~~
17 ~~over the sale by partition by licitation or private sale to third persons. The court shall~~
18 ~~order the partition by private sale between the existing co-owners as identified in the~~
19 ~~conveyance records as of the date of filing for the petition for partition by private~~

1 ~~sale. The petition for partition by private sale shall be granted first priority, and the~~
2 ~~sale shall be executed under Title IX of Book VII of the Code of Civil Procedure.~~

3 Section 2. Code of Civil Procedure Articles 4607, 4622(B), 4624, and 4625(A) are
4 hereby amended and reenacted and Code of Civil Procedure Article 4607.1 is hereby enacted
5 to read as follows:

6 Art. 4607. Partition by licitation or by private sale

7 When a partition is to be made by licitation, the sale shall be conducted at
8 public auction and after the advertisements required for judicial sales under
9 execution. When a partition is to be made at private sale without the consent of all
10 co-owners, the sale shall be for not less than the ~~appraised~~ fair market value of the
11 property, and documents required ~~pursuant to a court order to effect the sale~~ shall be
12 executed ~~on behalf of the absentee or nonconsenting co-owner~~ by a court-appointed
13 representative, who may be a co-owner, on behalf of all co-owners after the
14 ~~advertisements required for judicial sales under execution are made.~~ The court may
15 order that a partition by private sale be effectuated only after the thing has been
16 marketed in a commercially reasonable manner considering the nature of the thing.

17 All counsel of record, including attorneys appointed to represent absentee
18 defendants, and persons appearing in proper person shall be given notice of the sale
19 date. At any time prior to the sale, the parties may agree upon a nonjudicial
20 partition.

21 Art. 4607.1. Judgment ordering reimbursement or payment of amounts due to
22 co-owner and payment and allocation of costs of private sale out of proceeds
23 of sale

24 A judgment ordering the private sale of property to effect a partition in
25 accordance with this Chapter shall order out of the proceeds of the sale all of the
26 following:

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

1 Art. 4624. Publication of notice

2 Notice of the institution of the proceeding shall be published at least once in
3 the parish where the partition proceeding is instituted, in the manner provided by
4 law. This notice shall set forth the title and docket number of the proceeding, the
5 name and address of the court, a description of the property sought to be partitioned,
6 and the primary terms of the private sale and shall notify the absent defendant that
7 the plaintiff is seeking to have the property partitioned by licitation or by private sale
8 ~~under~~ in accordance with Civil Code Article 811, this Chapter, and Chapter 1 of this
9 Title, and that the absent defendant has fifteen days from the date of the publication
10 of notice, or of the initial publication of notice if there is more than one publication,
11 to answer the plaintiff's petition. If the property sought to be partitioned is a
12 corporeal immovable, the petitioner, contemporaneous with publication of notice,
13 shall affix a copy of the notice in at least one prominent location on the immovable.

14 Art. 4625. Trial; judgment ordering sale

15 A. Except as otherwise provided in Article 4630, if the petitioner proves on
16 the trial of the proceeding that he is a co-owner of the property and entitled to the
17 partition thereof and that the defendant is an absentee who owns an interest therein,
18 the court shall render judgment ordering either the public sale of the property for
19 cash by the sheriff to effect a partition, after the advertisement required by law for
20 a sale under execution, or the private sale of the property for cash not less than fair
21 market value and that the documents required to effectuate the sale, be executed on
22 behalf of the absentee or nonconsenting co-owner by a court-appointed
23 representative; who may be a co-owner, under this Chapter and Chapter 1 of this
24 Title, and after the advertisement required by law for a sale under execution.

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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)]

HB 668 Original

2026 Regular Session

Muscarello

Abstract: Provides relative to the partition of property.

Present law (C.C. Art. 811) provides that if one or more co-owners are absent, the court may order partition by private sale of a thing held indivision that is not susceptible to partition in kind.

Proposed law removes present law that is rededicated in other proposed law.

Present law (C.C.P. Art. 4607) provides that private sales shall not be for less than the appraised value of the property and that the private sale be executed with a court-appointed representative on behalf of the absentee or nonconsenting co-owner. Also requires notice to all counsel of record, including curators.

Proposed law changes present law by requiring for the sale to not be for less than the fair-market value of the property and that the documents required to effectuate the sale shall be executed by a court-appointed representative that may be a co-owner acting on behalf of all co-owners.

Proposed law also provides that the court may order that a partition by private sale be effectuated only after the thing has been marketed in a commercially reasonable manner considering the nature of the thing.

Proposed law provides for the judgment ordering reimbursements or payments of amounts due to co-owners.

Present law (C.C.P. Art. 4622(B)) provides that the petition for partition among co-owners shall have priority status for consideration by the court. The petition shall describe the primary terms of the proposed sale, identify the proposed purchaser and whether the proposed purchaser is a co-owner or third party, declare the source of funds to be used in the sale, and if the proposed purchaser is a juridical entity, disclose whether any co-owner has a relationship with that entity. Also provides that upon judgment ordering the sale, payment shall be made using certified funds within 24 hours.

Proposed law changes present law by removing that the petition for partition shall have priority status for consideration by the court and the petition contain all of the following:

- (1) The primary terms of the proposed sale.
- (2) The name of the proposed purchaser.
- (3) 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.

Proposed law also removes the requirement that upon judgment ordering the sale that payment be made using certified funds within 24 hours.

Present law (C.C.P. Art. 4624) provides for the publication of notice of partition proceedings. Requires notice to the absent defendant that the plaintiff is seeking to have the

property partitioned and that the absent defendant has 15 days from the date of the publication of initial notice to answer the plaintiff's petition.

Proposed law retains present law and adds that if the property sought to be partitioned is a corporeal immovable, the petitioner, contemporaneous with publication of notice, shall affix a copy of the notice in at least one prominent location on the immovable.

Present law (C.C.P. Art. 4625(A)) provides for trial and judgments related to the partition of co-owned property.

Proposed law provides that a court shall render judgment ordering the private sale of the property to be for no less than fair market value and that the documents required to effectuate the sale be executed on behalf of the absentee or nonconsenting co-owner by a court-appointed representative who may be a co-owner.

Proposed law also removes a reference to present law.

(Amends C.C. Art. 811 and C.C.P. Arts. 4607, 4622(B), 4624, and 4625(A); Adds C.C.P. Art. 4607.1)