

2021 Regular Session

HOUSE BILL NO. 521

BY REPRESENTATIVE SEABAUGH

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

PROPERTY: Provides relative to partitions of property

1 AN ACT

2 To amend and reenact Code of Civil Procedure Article 4622 and to enact Code of Civil
3 Procedure Articles 4607.1 and 4607.2, relative to property; to provide for partitions
4 of property; to provide for partitions by private sale; to provide for absentee co-
5 owners; to provide for proceedings and judgments of partitions by private sale; to
6 provide for an effective date; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. Code of Civil Procedure Article 4622 is hereby amended and reenacted
9 and Code of Civil Procedure Articles 4607.1 and 4607.2 are hereby enacted to read as
10 follows:

11 Art. 4607.1. Trial; judgment ordering sale

12 A. If any co-owner objects to the partition to be made at private sale for less
13 than the appraised value of the property, the court shall allow the petitioner to amend
14 its petition to plead for a sale for not less than appraised value. If the petitioning co-
15 owner amends the petition, then the court shall order partition by private sale in
16 accordance with the amended petition. Otherwise, the court may either grant the
17 original petition or order partition by licitation.

1 B. If more than one co-owner petitions the court for partition, such matters
2 shall be consolidated into one proceeding. The court shall consider the petitions
3 giving preference first to the sale to an existing co-owner, then the highest price, and
4 then to other terms and conditions of the sale. The court shall consider the best
5 interests of non-consenting co-owners. The court may grant any petition for private
6 sale or may order partition by licitation.

7 C. A judgment ordering partition by private sale shall do all of the following:

8 (1) Determine each co-owner's share of the property.

9 (2) Direct a person, who may be a co-owner, to execute an act of sale, with
10 or without warranty on behalf of all co-owners, in favor of an identified purchaser
11 or a juridical person solely owned by the identified purchaser, and all other
12 documents customarily executed in connection with a sale of immovable property
13 without the necessity to specifically identify such other documents.

14 Art. 4607.2. Judgment ordering reimbursement or payment of amounts due co-
15 owner and payment and allocation of costs of private sale out of proceeds of
16 sale

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

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

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

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

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 521 Engrossed

2021 Regular Session

Seabaugh

Abstract: Provides relative to court-ordered partitions for property.

Proposed law (C.C.P. Art. 4607.1) provides that if any co-owner objects to a partition by private sale for less than the appraised value of the property, the petitioner may amend the petition. The court shall order partition by private sale in accordance with the amended petition. Otherwise the court may grant the original petition or order partition by licitation.

Proposed law (C.C.P. Art. 4607.1) provides that if more than one co-owner petitions the court for partition, the matters shall be consolidated. The court shall consider petitions giving the following preferences:

- (1) Sale to an existing co-owner.
- (2) Highest price.
- (3) Other terms and conditions of the sale.

Proposed law (C.C.P. Art. 4607.1) provides that the court consider the best interests of the non-consenting co-owners and may grant any petition for private sale or order of partition by licitation.

Proposed law (C.C.P. Art. 4607.1) provides that the judgment ordering partition by private sale determine each co-owner's share of the property and direct a person to execute an act of sale with or without warranty on behalf of all co-owners.

Proposed law (C.C.P. Art. 4607.2) provides for the judgment ordering reimbursement of amounts due co-owners and allocation of costs of private sale out of the proceeds of the sale. The judgment ordering the private sale shall order:

- (1) Reimbursement to a co-owner of amount due for payment of taxes and expenses of property preservation.
- (2) Payment to a co-owner due by another co-owner who has received and retained fruits and revenues of the property.
- (3) Payment of reasonable costs related to the sale.
- (4) Payment of the remainder of the proceeds to each co-owner in proportion to the co-owner's property share.

Present 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.

Proposed law provides that the petition shall disclose whether the proposed purchaser is related to any co-owner within the fourth degree or a juridical entity in which the co-owner has a financial interest.

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

(Amends C.C.P. Art. 4622; Adds C.C.P. Arts. 4607.1 and 4607.2)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Civil Law and Procedure to the original bill:

1. Remove provisions regarding C.C. Art. 811 and C.C.P. Arts. 4607, 4621, 4624, 4625, 4626, 4626.1, 4627, 4629, and 4643.
2. Enact C.C.P. Arts. 4607.1 and 4607.2.
3. Add that a petition shall identify whether the proposed purchaser is related to any co-owner within the fourth degree or is a juridical entity in which any co-owner has a financial interest.