

REFERENCE TITLE: **partition; property; inheritance**

State of Arizona
House of Representatives
Fifty-sixth Legislature
Second Regular Session
2024

HB 2521

Introduced by
Representatives Peña: Dunn

AN ACT

AMENDING SECTION 14-3911, ARIZONA REVISED STATUTES; AMENDING TITLE 14, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 14; RELATING TO THE PARTITION OF PROPERTY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 14-3911, Arizona Revised Statutes, is amended to
3 read:

4 14-3911. Partition for purpose of distribution
5 When two or more heirs or devisees are entitled to distribution of
6 undivided interests in any real or personal property of the estate, the
7 personal representative or one or more of the heirs or devisees may
8 petition the court ~~prior to~~ BEFORE the formal or informal closing of the
9 estate, to make partition. After notice to the interested heirs or
10 devisees, the court shall partition the property EITHER:

11 1. In the same manner as provided by the law for civil actions of
12 partition. The court may direct the personal representative to sell any
13 property ~~which~~ THAT cannot be partitioned without prejudice to the owners
14 and ~~which~~ THAT cannot conveniently be allotted to any one party.

15 2. BEGINNING ON THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS
16 SECTION, PURSUANT TO CHAPTER 14 OF THIS TITLE.

17 Sec. 2. Title 14, Arizona Revised Statutes, is amended by adding
18 chapter 14, to read:

19 CHAPTER 14
20 UNIFORM PARTITION OF HEIRS PROPERTY ACT
21 ARTICLE 1. GENERAL PROVISIONS
22 14-14101. Short title
23 THIS CHAPTER MAY BE CITED AS THE UNIFORM PARTITION OF HEIRS PROPERTY
24 ACT.

25 14-14102. Definitions
26 IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

27 1. "ASCENDANT" MEANS AN INDIVIDUAL WHO PRECEDES ANOTHER INDIVIDUAL
28 IN LINEAGE, IN THE DIRECT LINE OF ASCENT FROM THE OTHER INDIVIDUAL.

29 2. "COLLATERAL" MEANS AN INDIVIDUAL WHO IS RELATED TO ANOTHER
30 INDIVIDUAL UNDER THE LAW OF TESTATE SUCCESSION OF THIS STATE BUT WHO IS
31 NOT THE OTHER INDIVIDUAL'S ASCENDANT OR DESCENDANT.

32 3. "DESCENDANT" MEANS AN INDIVIDUAL WHO FOLLOWS ANOTHER INDIVIDUAL
33 IN LINEAGE, IN THE DIRECT LINE OF DESCENT FROM THE OTHER INDIVIDUAL.

34 4. "DETERMINATION OF VALUE" MEANS A COURT ORDER THAT DETERMINES THE
35 FAIR MARKET VALUE OF HEIRS PROPERTY OR THAT ADOPTS THE VALUATION OF THE
36 PROPERTY AGREED TO BY ALL COTENANTS.

37 5. "HEIRS PROPERTY" MEANS REAL PROPERTY THAT IS HELD IN TENANCY IN
38 COMMON AND THAT SATISFIES ALL OF THE FOLLOWING REQUIREMENTS AS OF THE
39 FILING OF A PARTITION ACTION:

40 (a) THERE IS NO AGREEMENT IN A RECORD THAT BINDS ALL THE COTENANTS
41 AND THAT GOVERNS THE PARTITION OF THE PROPERTY.

42 (b) ONE OR MORE OF THE COTENANTS ACQUIRED TITLE FROM A RELATIVE,
43 WHETHER LIVING OR DECEASED.

1 (c) ANY OF THE FOLLOWING APPLIES:
2 (i) TWENTY PERCENT OR MORE OF THE INTERESTS ARE HELD BY COTENANTS
3 WHO ARE RELATIVES.
4 (ii) TWENTY PERCENT OR MORE OF THE INTERESTS ARE HELD BY AN
5 INDIVIDUAL WHO ACQUIRED TITLE FROM A RELATIVE, WHETHER LIVING OR DECEASED.
6 (iii) TWENTY PERCENT OR MORE OF THE COTENANTS ARE RELATIVES.
7 6. "PARTITION BY SALE" MEANS A COURT-ORDERED SALE OF THE ENTIRE
8 HEIRS PROPERTY, WHETHER BY OPEN-MARKET SALE, SEALED BIDS OR AUCTION.
9 7. "PARTITION IN KIND" MEANS THE DIVISION OF HEIRS PROPERTY INTO
10 PHYSICALLY DISTINCT AND SEPARATELY TITLED PARCELS.
11 8. "RECORD" MEANS INFORMATION THAT IS INSCRIBED ON A TANGIBLE
12 MEDIUM OR THAT IS STORED IN AN ELECTRONIC OR OTHER MEDIUM AND IS
13 RETRIEVABLE IN PERCEIVABLE FORM.
14 9. "RELATIVE" MEANS AN ASCENDANT, DESCENDANT OR COLLATERAL OR AN
15 INDIVIDUAL WHO IS OTHERWISE RELATED TO ANOTHER INDIVIDUAL BY BLOOD,
16 MARRIAGE OR ADOPTION OR BY ANY OTHER LAW OF THIS STATE.
17 14-14103. Applicability
18 THIS CHAPTER APPLIES TO PARTITION ACTIONS FILED ON OR AFTER THE
19 EFFECTIVE DATE OF THIS CHAPTER.
20 14-14104. Relation to other law; service; notice by posting
21 A. IN AN ACTION TO PARTITION REAL PROPERTY UNDER SECTION 14-3911,
22 THE COURT SHALL DETERMINE WHETHER THE PROPERTY IS HEIRS PROPERTY. IF THE
23 COURT DETERMINES THAT THE PROPERTY IS HEIRS PROPERTY, THE HEIRS PROPERTY
24 MUST BE PARTITIONED PURSUANT TO THIS CHAPTER UNLESS ALL OF THE COTENANTS
25 OTHERWISE AGREE. THIS SECTION DOES NOT LIMIT OR AFFECT THE METHOD BY
26 WHICH SERVICE OF A PETITION IN A PARTITION ACTION MAY BE MADE.
27 B. IN A PARTITION ACTION, IF THE PLAINTIFF SEEKS TO GIVE NOTICE OF
28 THE ACTION BY PUBLICATION AND THE COURT DETERMINES THAT THE PROPERTY MAY
29 BE HEIRS PROPERTY, NOT LATER THAN TEN DAYS AFTER THE COURT'S DETERMINATION
30 THAT THE PROPERTY MAY BE HEIRS PROPERTY THE PLAINTIFF SHALL POST AND
31 MAINTAIN WHILE THE ACTION IS PENDING A CONSPICUOUS SIGN ON THE PROPERTY
32 THAT IS THE SUBJECT OF THE PARTITION ACTION. THE SIGN SHALL STATE THAT
33 THE PARTITION ACTION HAS COMMENCED AND SHALL IDENTIFY THE NAME AND ADDRESS
34 OF THE COURT AND THE LEGAL DESCRIPTION OF THE PROPERTY. THE COURT MAY
35 REQUIRE THE PETITIONER TO PUBLISH ON THE SIGN THE NAME OF THE PETITIONER
36 AND THE KNOWN RESPONDENTS.
37 14-14105. Determination of value
38 A. IF THE COURT DETERMINES THAT THE PROPERTY THAT IS THE SUBJECT OF
39 A PARTITION ACTION IS HEIRS PROPERTY, THE COURT SHALL DETERMINE THE FAIR
40 MARKET VALUE OF THE HEIRS PROPERTY BY ORDERING AN APPRAISAL PURSUANT TO
41 SUBSECTION B OF THIS SECTION, UNLESS ONE OF THE FOLLOWING APPLIES:
42 1. IF ALL COTENANTS HAVE AGREED TO THE VALUE OF THE PROPERTY OR TO
43 ANOTHER METHOD OF VALUATION, THE COURT SHALL ADOPT THAT VALUE OR THE VALUE
44 PRODUCED BY THE AGREED METHOD OF VALUATION.

1 2. IF THE COURT DETERMINES THAT THE EVIDENTIARY VALUE OF AN
2 APPRAISAL IS OUTWEIGHED BY THE COST OF THE APPRAISAL, THE COURT, AFTER AN
3 EVIDENTIARY HEARING, SHALL DETERMINE THE FAIR MARKET VALUE OF THE PROPERTY
4 AND PROVIDE NOTICE TO THE PARTIES OF THE VALUE.

5 B. IF THE COURT ORDERS AN APPRAISAL, THE COURT SHALL APPOINT A
6 DISINTERESTED REAL ESTATE APPRAISER LICENSED IN THIS STATE TO DETERMINE
7 THE FAIR MARKET VALUE OF THE PROPERTY ASSUMING SOLE OWNERSHIP OF THE FEE
8 SIMPLE ESTATE. ON COMPLETION OF THE APPRAISAL, THE APPRAISER SHALL FILE A
9 SWORN OR VERIFIED APPRAISAL WITH THE COURT. IF AN APPRAISAL IS CONDUCTED
10 PURSUANT TO THIS SUBSECTION, THE COURT SHALL PROVIDE NOTICE OF THE
11 APPRAISAL TO EACH PARTY WITH A KNOWN ADDRESS NOT LATER THAN TEN DAYS AFTER
12 THE APPRAISAL IS FILED. THE NOTICE SHALL INCLUDE ALL OF THE FOLLOWING:

- 13 1. THE APPRAISED FAIR MARKET VALUE OF THE PROPERTY.
14 2. THAT THE APPRAISAL IS AVAILABLE AT THE COURT CLERK'S OFFICE.
15 3. THAT A PARTY MAY FILE WITH THE COURT AN OBJECTION TO THE
16 APPRAISAL NOT LATER THAN THIRTY DAYS AFTER THE NOTICE IS PROVIDED. THE
17 OBJECTION SHALL STATE THE GROUNDS FOR THE OBJECTION.

18 C. IF AN APPRAISAL IS FILED WITH THE COURT PURSUANT TO SUBSECTION B
19 OF THIS SECTION, THE COURT SHALL CONDUCT A HEARING TO DETERMINE THE FAIR
20 MARKET VALUE OF THE PROPERTY NOT SOONER THAN THIRTY DAYS AFTER A COPY OF
21 THE NOTICE OF THE APPRAISAL IS PROVIDED TO EACH PARTY PURSUANT TO
22 SUBSECTION B OF THIS SECTION, WHETHER OR NOT AN OBJECTION TO THE APPRAISAL
23 IS FILED PURSUANT TO SUBSECTION B, PARAGRAPH 3 OF THIS SECTION. IN
24 ADDITION TO THE COURT-ORDERED APPRAISAL, THE COURT MAY CONSIDER ANY OTHER
25 EVIDENCE OF VALUE OFFERED BY A PARTY. AFTER THE HEARING BUT BEFORE
26 CONSIDERING THE MERITS OF THE PARTITION ACTION, THE COURT SHALL DETERMINE
27 THE FAIR MARKET VALUE OF THE PROPERTY AND PROVIDE NOTICE TO THE PARTIES OF
28 THE DETERMINATION OF VALUE.

29 14-14106. Cotenant buyout

30 A. IF ANY COTENANT REQUESTED PARTITION BY SALE AFTER THE
31 DETERMINATION OF VALUE PURSUANT TO SECTION 14-14105, SUBSECTION C, THE
32 COURT SHALL PROVIDE NOTICE TO THE PARTIES THAT ANY COTENANT, EXCEPT A
33 COTENANT THAT REQUESTED PARTITION BY SALE, MAY BUY ALL THE INTERESTS OF
34 THE COTENANTS THAT REQUESTED PARTITION BY SALE. NOT LATER THAN FORTY-FIVE
35 DAYS AFTER THE NOTICE IS PROVIDED, ANY COTENANT, EXCEPT A COTENANT THAT
36 REQUESTED PARTITION BY SALE, MAY FILE NOTICE WITH THE COURT THAT THE
37 COTENANT ELECTS TO BUY ALL THE INTERESTS OF THE COTENANTS THAT REQUESTED
38 PARTITION BY SALE. THE PURCHASE PRICE FOR EACH OF THE INTERESTS OF A
39 COTENANT THAT REQUESTED PARTITION BY SALE SHALL BE THE FAIR MARKET VALUE
40 OF THE ENTIRE PARCEL DETERMINED PURSUANT TO SECTION 14-14105, SUBSECTION C
41 MULTIPLIED BY THE COTENANT'S FRACTIONAL OWNERSHIP OF THE ENTIRE PARCEL.
42 AFTER EXPIRATION OF THE FORTY-FIVE-DAY PERIOD, THE FOLLOWING RULES APPLY:

- 43 1. IF ONLY ONE COTENANT ELECTS TO BUY ALL THE INTERESTS OF THE
44 COTENANTS THAT REQUESTED PARTITION BY SALE, THE COURT SHALL NOTIFY ALL THE
45 PARTIES OF THAT FACT.

1 2. IF MORE THAN ONE COTENANT ELECTS TO BUY ALL THE INTERESTS OF THE
2 COTENANTS THAT REQUESTED PARTITION BY SALE, THE COURT SHALL ALLOCATE THE
3 RIGHT TO BUY THOSE INTERESTS AMONG THE ELECTING COTENANTS BASED ON EACH
4 ELECTING COTENANT'S EXISTING FRACTIONAL OWNERSHIP OF THE ENTIRE PARCEL
5 DIVIDED BY THE TOTAL EXISTING FRACTIONAL OWNERSHIP OF ALL COTENANTS
6 ELECTING TO BUY AND PROVIDE NOTICE TO ALL THE PARTIES OF THAT FACT AND OF
7 THE PRICE TO BE PAID BY EACH ELECTING COTENANT.

8 3. IF NO COTENANT ELECTS TO BUY ALL THE INTERESTS OF THE COTENANTS
9 THAT REQUESTED PARTITION BY SALE, THE COURT SHALL PROVIDE NOTICE TO ALL
10 THE PARTIES OF THAT FACT AND RESOLVE THE PARTITION ACTION PURSUANT TO
11 SECTION 14-14107.

12 B. IF THE COURT PROVIDES NOTICE TO THE PARTIES PURSUANT TO
13 SUBSECTION A, PARAGRAPH 1 OR 2 OF THIS SECTION, THE COURT SHALL SET A DATE
14 NOT SOONER THAN NINETY DAYS AFTER THE DATE THE NOTICE WAS PROVIDED BY
15 WHICH ELECTING COTENANTS MUST PAY THEIR APPORTIONED PRICE TO THE COURT.
16 AFTER NINETY DAYS, THE FOLLOWING RULES APPLY:

17 1. IF ALL ELECTING COTENANTS TIMELY PAY THEIR APPORTIONED PRICE,
18 THE COURT SHALL ISSUE AN ORDER REALLOCATING ALL THE INTERESTS OF THE
19 COTENANTS AND DISBURSE THE AMOUNTS HELD BY THE COURT TO THE PERSONS
20 ENTITLED TO THEM.

21 2. IF NO ELECTING COTENANT TIMELY PAYS ITS APPORTIONED PRICE, THE
22 COURT SHALL RESOLVE THE PARTITION ACTION PURSUANT TO SECTION 14-14107 AS
23 IF THE INTERESTS OF THE COTENANTS THAT REQUESTED PARTITION BY SALE WERE
24 NOT PURCHASED.

25 3. IF ONE OR MORE BUT NOT ALL OF THE ELECTING COTENANTS FAILS TO
26 PAY THEIR APPORTIONED PRICE ON TIME, THE COURT, ON MOTION, SHALL PROVIDE
27 NOTICE TO THE ELECTING COTENANTS THAT PAID THEIR APPORTIONED PRICE OF THE
28 INTEREST REMAINING AND THE PRICE FOR THAT INTEREST.

29 C. NOT LATER THAN TWENTY DAYS AFTER THE COURT PROVIDES NOTICE
30 PURSUANT TO SUBSECTION B, PARAGRAPH 3 OF THIS SECTION, ANY COTENANT THAT
31 PAID MAY ELECT TO PURCHASE ALL OF THE REMAINING INTEREST BY PAYING THE
32 ENTIRE AMOUNT TO THE COURT. AFTER THE TWENTY-DAY PERIOD, THE FOLLOWING
33 RULES APPLY:

34 1. IF ONLY ONE COTENANT PAYS THE ENTIRE PRICE FOR THE REMAINING
35 INTEREST, THE COURT SHALL ISSUE AN ORDER REALLOCATING THE REMAINING
36 INTEREST TO THAT COTENANT. THE COURT SHALL PROMPTLY ISSUE AN ORDER
37 REALLOCATING THE INTERESTS OF ALL OF THE COTENANTS AND DISBURSE THE
38 AMOUNTS HELD BY THE COURT TO THE PERSONS ENTITLED TO THEM.

39 2. IF NO COTENANT PAYS THE ENTIRE PRICE FOR THE REMAINING INTEREST,
40 THE COURT SHALL RESOLVE THE PARTITION ACTION PURSUANT TO SECTION 14-14107
41 AS IF THE INTERESTS OF THE COTENANTS THAT REQUESTED PARTITION BY SALE WERE
42 NOT PURCHASED.

43 3. IF MORE THAN ONE COTENANT PAYS THE ENTIRE PRICE FOR THE
44 REMAINING INTEREST, THE COURT SHALL REAPPORTION THE REMAINING INTEREST
45 AMONG THOSE PAYING COTENANTS, BASED ON EACH PAYING COTENANT'S ORIGINAL

1 FRACTIONAL OWNERSHIP OF THE ENTIRE PARCEL DIVIDED BY THE TOTAL ORIGINAL
2 FRACTIONAL OWNERSHIP OF ALL COTENANTS THAT PAID THE ENTIRE PRICE FOR THE
3 REMAINING INTEREST. THE COURT SHALL PROMPTLY ISSUE AN ORDER REALLOCATING
4 ALL OF THE COTENANTS' INTERESTS, DISBURSE THE AMOUNTS HELD BY THE COURT TO
5 THE PERSONS ENTITLED TO THEM AND PROMPTLY REFUND ANY EXCESS PAYMENT HELD
6 BY THE COURT.

7 D. NOT LATER THAN FORTY-FIVE DAYS AFTER THE COURT PROVIDES NOTICE
8 TO THE PARTIES PURSUANT TO SUBSECTION A OF THIS SECTION, ANY COTENANT WHO
9 IS ENTITLED TO BUY AN INTEREST UNDER THIS SECTION MAY REQUEST THE COURT TO
10 AUTHORIZE THE SALE AS PART OF THE PENDING ACTION OF THE INTERESTS OF
11 COTENANTS NAMED AS RESPONDENTS AND SERVED WITH THE COMPLAINT BUT THAT DID
12 NOT APPEAR IN THE ACTION. IF THE COURT RECEIVES A TIMELY REQUEST PURSUANT
13 TO THIS SUBSECTION, THE COURT, AFTER A HEARING, MAY DENY THE REQUEST OR
14 AUTHORIZE THE REQUESTED ADDITIONAL SALE ON SUCH TERMS AS THE COURT
15 DETERMINES ARE FAIR AND REASONABLE, SUBJECT TO ALL OF THE FOLLOWING:

16 1. A SALE AUTHORIZED UNDER THIS SUBSECTION MAY OCCUR ONLY AFTER THE
17 PURCHASE PRICES FOR ALL INTERESTS SUBJECT TO SALE PURSUANT TO SUBSECTIONS
18 A, B AND C OF THIS SECTION HAVE BEEN PAID TO THE COURT AND THOSE INTERESTS
19 HAVE BEEN REALLOCATED AMONG THE COTENANTS AS PROVIDED IN SUBSECTIONS A, B
20 AND C OF THIS SECTION.

21 2. THE PURCHASE PRICE FOR THE INTEREST OF A NONAPPEARING COTENANT
22 IS BASED ON THE COURT'S DETERMINATION OF VALUE PURSUANT TO SECTION
23 14-14105, SUBSECTION C.

24 14-14107. Partition alternative

25 A. IF ALL THE INTERESTS OF ALL COTENANTS THAT REQUESTED PARTITION
26 BY SALE ARE NOT PURCHASED BY OTHER COTENANTS OR IF AFTER THE CONCLUSION OF
27 A BUYOUT PURSUANT TO SECTION 14-14106 A COTENANT REMAINS THAT HAS
28 REQUESTED PARTITION IN KIND, THE COURT SHALL ORDER PARTITION IN KIND
29 UNLESS THE COURT, AFTER CONSIDERING THE FACTORS PRESCRIBED IN SECTION
30 14-14108, FINDS THAT PARTITION IN KIND WILL RESULT IN MANIFEST PREJUDICE
31 TO THE COTENANTS AS A GROUP. IN CONSIDERING WHETHER TO ORDER PARTITION IN
32 KIND, THE COURT SHALL APPROVE A REQUEST BY TWO OR MORE PARTIES TO HAVE
33 THEIR INDIVIDUAL INTERESTS AGGREGATED.

34 B. IF THE COURT DOES NOT ORDER PARTITION IN KIND PURSUANT TO
35 SUBSECTION A OF THIS SECTION, THE COURT SHALL ORDER PARTITION BY SALE
36 PURSUANT TO SECTION 14-14109. IF NO COTENANT REQUESTED PARTITION BY SALE,
37 THE COURT SHALL DISMISS THE ACTION. IF THE COURT ORDERS PARTITION IN KIND
38 PURSUANT TO SUBSECTION A OF THIS SECTION, THE COURT MAY REQUIRE THAT ONE
39 OR MORE COTENANTS PAY ONE OR MORE OTHER COTENANTS AMOUNTS SO THAT THE
40 PAYMENTS, TAKEN TOGETHER WITH THE VALUE OF THE IN-KIND DISTRIBUTIONS TO
41 THE COTENANTS, WILL MAKE THE PARTITION IN KIND JUST AND PROPORTIONATE IN
42 VALUE TO THE FRACTIONAL INTERESTS HELD. IF THE COURT ORDERS PARTITION IN
43 KIND PURSUANT TO SUBSECTION A OF THIS SECTION, THE COURT SHALL ALLOCATE TO
44 THE COTENANTS THAT ARE UNKNOWN, UNLOCATABLE OR THE SUBJECT OF A DEFAULT
45 JUDGMENT, IF THEIR INTERESTS WERE NOT BOUGHT OUT PURSUANT TO SECTION

1 14-14106, A PART OF THE PROPERTY REPRESENTING THE COMBINED INTERESTS OF
2 THESE COTENANTS AS DETERMINED BY THE COURT, AND THIS PART OF THE PROPERTY
3 SHALL REMAIN UNDIVIDED.

4 14-14108. Considerations for partition in kind

5 A. IN DETERMINING UNDER SECTION 14-14107 WHETHER PARTITION IN KIND
6 WOULD RESULT IN MANIFEST PREJUDICE TO THE COTENANTS AS A GROUP, THE COURT
7 SHALL CONSIDER ALL OF THE FOLLOWING FACTORS:

8 1. WHETHER THE HEIRS PROPERTY PRACTICABLY CAN BE DIVIDED AMONG THE
9 COTENANTS.

10 2. WHETHER PARTITION IN KIND WOULD APPORTION THE PROPERTY IN SUCH A
11 WAY THAT THE AGGREGATE FAIR MARKET VALUE OF THE PARCELS RESULTING FROM THE
12 DIVISION WOULD BE MATERIALLY LESS THAN THE VALUE OF THE PROPERTY IF IT
13 WERE SOLD AS A WHOLE, TAKING INTO ACCOUNT THE CONDITION UNDER WHICH A
14 COURT-ORDERED SALE LIKELY WOULD OCCUR.

15 3. EVIDENCE OF THE COLLECTIVE DURATION OF OWNERSHIP OR POSSESSION
16 OF THE PROPERTY BY A COTENANT AND ONE OR MORE PREDECESSORS IN TITLE OR
17 PREDECESSORS IN POSSESSION TO THE COTENANT WHO ARE OR WERE RELATIVES OF
18 THE COTENANT OR EACH OTHER.

19 4. A COTENANT'S SENTIMENTAL ATTACHMENT TO THE PROPERTY, INCLUDING
20 ANY ATTACHMENT ARISING BECAUSE THE PROPERTY HAS ANCESTRAL OR OTHER UNIQUE
21 OR SPECIAL VALUE TO THE COTENANT.

22 5. THE LAWFUL USE BEING MADE OF THE PROPERTY BY A COTENANT AND THE
23 DEGREE TO WHICH THE COTENANT WOULD BE HARMED IF THE COTENANT COULD NOT
24 CONTINUE THE SAME USE OF THE PROPERTY.

25 6. THE DEGREE TO WHICH THE COTENANTS HAVE CONTRIBUTED THEIR PRO
26 RATA SHARE OF THE PROPERTY TAXES, INSURANCE AND OTHER EXPENSES ASSOCIATED
27 WITH MAINTAINING OWNERSHIP OF THE PROPERTY OR HAVE CONTRIBUTED TO THE
28 PHYSICAL IMPROVEMENT, MAINTENANCE OR UPKEEP OF THE PROPERTY.

29 7. ANY OTHER RELEVANT FACTOR.

30 B. THE COURT MAY NOT CONSIDER ANY ONE FACTOR LISTED IN SUBSECTION A
31 OF THIS SECTION TO BE DISPOSITIVE WITHOUT WEIGHING THE TOTALITY OF ALL
32 RELEVANT FACTORS AND CIRCUMSTANCES.

33 14-14109. Open-market sale; sealed bids; auctions

34 A. IF THE COURT ORDERS A SALE OF HEIRS PROPERTY, THE SALE MUST BE
35 AN OPEN-MARKET SALE UNLESS THE COURT FINDS THAT A SALE BY SEALED BID OR AN
36 AUCTION WOULD BE MORE ECONOMICALLY ADVANTAGEOUS AND IN THE BEST INTEREST
37 OF THE COTENANTS AS A GROUP. IF THE COURT ORDERS AN OPEN-MARKET SALE AND
38 THE PARTIES, NOT LATER THAN TEN DAYS AFTER THE ENTRY OF THE ORDER, AGREE
39 ON A REAL ESTATE BROKER LICENSED IN THIS STATE TO OFFER THE PROPERTY FOR
40 SALE, THE COURT SHALL APPOINT THE BROKER AND ESTABLISH A REASONABLE
41 COMMISSION. IF THE PARTIES DO NOT AGREE ON A BROKER, THE COURT SHALL
42 APPOINT A DISINTERESTED REAL ESTATE BROKER LICENSED IN THIS STATE TO OFFER
43 THE PROPERTY FOR SALE AND SHALL ESTABLISH A REASONABLE COMMISSION. THE
44 BROKER SHALL OFFER THE PROPERTY FOR SALE IN A COMMERCIALY REASONABLE
45 MANNER AT A PRICE NOT LOWER THAN THE FAIR MARKET VALUE OF THE PROPERTY

1 DETERMINED PURSUANT TO SECTION 14-14105, SUBSECTION C AND ON THE TERMS AND
2 CONDITIONS ESTABLISHED BY THE COURT. IF THE BROKER APPOINTED PURSUANT TO
3 THIS SUBSECTION OBTAINS WITHIN A REASONABLE TIME AN OFFER TO PURCHASE THE
4 PROPERTY FOR AT LEAST THE DETERMINED FAIR MARKET VALUE, BOTH OF THE
5 FOLLOWING APPLY:

6 1. THE BROKER SHALL COMPLY WITH THE REPORTING REQUIREMENTS IN
7 SUBSECTION D OF THIS SECTION.

8 2. THE SALE MAY BE COMPLETED IN ACCORDANCE WITH STATE LAW OTHER
9 THAN THE PROVISIONS OF THIS SECTION.

10 B. IF THE BROKER APPOINTED PURSUANT TO SUBSECTION A DOES NOT OBTAIN
11 WITHIN A REASONABLE TIME AN OFFER TO PURCHASE THE PROPERTY FOR AT LEAST
12 THE DETERMINED FAIR MARKET VALUE OF THE PROPERTY, THE COURT, AFTER A
13 HEARING, MAY DO ANY OF THE FOLLOWING:

14 1. APPROVE THE HIGHEST OUTSTANDING OFFER, IF ANY.

15 2. REDETERMINE THE VALUE OF THE HEIRS PROPERTY AND ORDER THAT THE
16 HEIRS PROPERTY CONTINUE TO BE OFFERED FOR AN ADDITIONAL TIME.

17 3. ORDER THAT THE HEIRS PROPERTY BE SOLD BY SEALED BIDS OR AT AN
18 AUCTION.

19 C. IF THE COURT ORDERS A SALE BY SEALED BIDS OR AT AN AUCTION, THE
20 COURT SHALL SET TERMS AND CONDITIONS OF THE SALE. IF THE COURT ORDERS AN
21 AUCTION, THE AUCTION MUST BE CONDUCTED PURSUANT TO TITLE 33, CHAPTER 6,
22 ARTICLE 2. IF A PURCHASER IS ENTITLED TO A SHARE OF THE PROCEEDS OF THE
23 SALE, THE PURCHASER IS ENTITLED TO A CREDIT AGAINST THE PRICE IN AN AMOUNT
24 EQUAL TO THE PURCHASER'S SHARE OF THE PROCEEDS.

25 D. UNLESS REQUIRED TO DO SO WITHIN A SHORTER TIME, A BROKER WHO IS
26 APPOINTED PURSUANT TO SUBSECTION A OF THIS SECTION TO OFFER HEIRS PROPERTY
27 FOR OPEN-MARKET SALE SHALL FILE A REPORT WITH THE COURT NOT LATER THAN
28 SEVEN DAYS AFTER RECEIVING AN OFFER TO PURCHASE THE HEIRS PROPERTY FOR AT
29 LEAST THE FAIR MARKET VALUE OF THE HEIRS PROPERTY. THE REPORT MUST
30 CONTAIN ALL OF THE FOLLOWING INFORMATION:

31 1. A DESCRIPTION OF THE PROPERTY TO BE SOLD TO EACH BUYER.

32 2. THE NAME OF EACH BUYER.

33 3. THE PROPOSED PURCHASE PRICE.

34 4. THE TERMS AND CONDITIONS OF THE PROPOSED SALE, INCLUDING THE
35 TERMS OF ANY OWNER FINANCING.

36 5. THE AMOUNTS TO BE PAID TO LIENHOLDERS.

37 6. A STATEMENT OF CONTRACTUAL OR OTHER ARRANGEMENTS OR CONDITIONS
38 OF THE BROKER'S COMMISSION.

39 7. ANY OTHER MATERIAL FACTS RELEVANT TO THE SALE.

40 14-14110. Commissioners

41 IF THE COURT APPOINTS COMMISSIONERS PURSUANT TO SECTION 12-1215,
42 EACH COMMISSIONER, IN ADDITION TO THE REQUIREMENTS AND DISQUALIFICATIONS
43 APPLICABLE TO COMMISSIONERS, MUST BE DISINTERESTED AND IMPARTIAL AND NOT
44 BE A PARTY TO OR A PARTICIPANT IN THE ACTION.

1 14-14111. Uniformity of application and construction

2 IN APPLYING AND CONSTRUING THIS CHAPTER, THE COURTS SHALL CONSIDER
3 THE NEED TO PROMOTE UNIFORMITY OF THE LAW WITH RESPECT TO ITS SUBJECT
4 MATTER AMONG THE STATES THAT ENACT THE UNIFORM PARTITION OF HEIRS PROPERTY
5 ACT.

6 14-14112. Relation to electronic signatures in global and
7 national commerce act

8 THIS SECTION MODIFIES, LIMITS AND SUPERSEDES THE ELECTRONIC
9 SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT (15 UNITED STATES CODE
10 SECTIONS 7001 THROUGH 7031) BUT DOES NOT MODIFY, LIMIT OR SUPERSEDE
11 SECTION 101(c) OF THAT ACT (15 UNITED STATES CODE SECTION 7001(c)) OR
12 AUTHORIZE ELECTRONIC DELIVERY OF ANY OF THE NOTICES DESCRIBED IN SECTION
13 103(b) OF THAT ACT (15 UNITED STATES CODE SECTION 7003(b)).