

Regular Session, 2014

HOUSE BILL NO. 1214

BY REPRESENTATIVES JEFFERSON AND KATRINA JACKSON

PROPERTY/IMMOVABLE: Provides relative to the partition of immovable property

1 AN ACT

2 To amend and reenact R.S. 9:1113, relative to partition of immovable property; to provide
3 relative to minority interests; to provide relative to private sales; to provide certain
4 terms, conditions, and procedures; and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. R.S. 9:1113 is hereby amended and reenacted to read as follows:

7 §1113. Partition of immovable property; minority interest; private sale; appraisal

8 A. ~~If immovable property is susceptible of partition by licitation or private~~
9 ~~sale pursuant to Civil Code Article 811 and a co-owner or co-owners owning an~~
10 ~~aggregate interest of fifteen percent or less of the immovable property petition the~~
11 ~~court to partition the property, the court shall allow the remaining co-owners to~~
12 ~~purchase at private sale the petitioners' shares at a price determined by a court-~~
13 ~~appointed appraiser.~~ If immovable property is susceptible of partition by licitation
14 or private sale pursuant to Civil Code Article 811, and a petition to partition the
15 property is filed by a co-owner or co-owners owning either an aggregate interest of
16 fifteen percent or less of the immovable property or an aggregate interest of twenty
17 percent or less of the immovable property if there was past ownership of the whole
18 by a common ascendant, the court shall allow the remaining co-owners to purchase
19 at private sale the petitioners' shares at a price determined by a court-appointed
20 appraiser.

1 B.(1) Each remaining co-owner shall only be entitled to purchase a portion
2 of the property being sold equal to his pro rata share. Each remaining co-owner shall
3 have thirty days from the date the last defendant is served with the petition to
4 partition or thirty days from receipt of written notice, sent by certified mail or
5 commercial courier, from a co-owner waiving his right to purchase, whichever is
6 earlier, in which to file a notice to exercise his option to purchase his pro rata share
7 of the property being sold. Where past ownership of the property was by a common
8 ascendant, each remaining co-owner shall have ninety days to file the notice
9 provided by this Paragraph. The filed notice, which shall be served on all parties,
10 shall be considered a fully binding contract to purchase the property.

11 (2) Upon the lapse of the ~~thirtieth day~~ time in which to file the notice
12 required in Paragraph (1) of this Subsection, any co-owner who has failed to timely
13 exercise his option to purchase the property shall relinquish his right to purchase his
14 pro rata share. The relinquishment of the right to purchase shall enure to the benefit
15 of the remaining purchasing co-owners, who shall then be entitled to purchase, by
16 pro rata share, the shares made available by the co-owner who relinquished his right
17 to purchase. Each remaining purchasing co-owner shall have an additional ten days
18 from the previous deadline to file his notice to purchase the relinquished shares.

19 (3) The procedures provided in this Subsection shall continue until there are
20 no outstanding forfeited shares; however, the court may use its discretion in rounding
21 the shares of the co-owners to the nearest hundredth share.

22 (4) The initial calculation of the pro rata share in ~~Subsection B of this~~
23 ~~Section~~ this Subsection shall be based on the percentage of ownership of potential
24 purchasing co-owners, excluding the petitioning co-owners. When a potential
25 purchasing co-owner relinquishes his right to purchase, the pro rata share shall be
26 recalculated to include only the remaining purchasing co-owners, excluding the
27 relinquishing co-owners. Once a purchasing co-owner relinquishes his right to
28 purchase his pro rata share, he shall not be entitled to file any subsequent notice to
29 purchase in the pending action.

1 Section 2. This Act shall become effective upon signature by the governor or, if not
2 signed by the governor, upon expiration of the time for bills to become law without signature
3 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
4 vetoed by the governor and subsequently approved by the legislature, this Act shall become
5 effective on the day following such approval.

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)]

Jefferson

HB No. 1214

Abstract: Provides procedures for the partition of immovable property previously owned by a common ascendant of all of the present owners of the property.

Present law provides that if immovable property is susceptible of partition by licitation or private sale and a co-owner or co-owners owning an aggregate interest of 15% or less of the immovable property petition the court to partition the property, the court shall allow the remaining co-owners to purchase at private sale the petitioners' shares at a price determined by a court-appointed appraiser.

Proposed law retains present law and adds provisions allowing the remaining co-owners to purchase at private sale the petitioners' shares at a price determined by a court-appointed appraiser when the petition to partition the property is filed by co-owners with an aggregate interest of 20% or less of the immovable property if there was past ownership of the whole by a common ascendant.

Present law provides that each remaining co-owner shall only be entitled to purchase a portion of the property being sold equal to his pro rata share. Each remaining co-owner shall have 30 days from the date the last defendant is served with the petition to partition or 30 days from receipt of written notice, sent by certified mail or commercial courier, from a co-owner waiving his right to purchase, whichever is earlier, in which to file a notice to exercise his option to purchase his pro rata share of the property being sold.

Proposed law adds that where past ownership of the property was by a common ascendant, each remaining co-owner shall have 90 rather than 30 days to file such notice.

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

(Amends R.S. 9:1113)