



SENATE BILL 729: GSC Modernize Partition Laws.

2019-2020 General Assembly

Committee:		Date:	October 15, 2020
Introduced by:		Prepared by:	David Unwin
Analysis of:	S.L. 2020-23		Staff Attorney

OVERVIEW: *S.L. 2020-23 modernizes the partition of property statutes, makes conforming and technical amendments to statutes referencing the former partition chapter, and makes technical, conforming, and modernizing amendments to the elective life estate statute. This act became effective October 1, 2020.*

BACKGROUND: When property is concurrently owned by multiple cotenants, a cotenant has a right to partition the property in a special proceeding before a clerk of superior court. There are two partition procedures: (i) actual partition, where property is physically apportioned among the cotenants, and (ii) partition sale, where property is sold and the sale proceeds are divided among the cotenants.

BILL ANALYSIS: This act modernizes the partition of property statutes by reorganizing them into a new chapter, updating and clarifying language, and making substantive changes, including the following:

- Generally, the court shall allocate among all the cotenants those reasonable attorneys' fees incurred for the benefit of all the cotenants.
- The petitioner is not required to serve or join spouses of cotenants of real property, unless the spouse is also a cotenant.
- A cotenant of real property has a right to contribution from the other cotenants for the cotenant's payment of the property's carrying costs and improvements.
- A party to whom a share of real property has been apportioned in an actual partition may obtain an order for possession of the share.

This act also makes conforming and technical amendments to statutes referencing the former partition chapter, which include: (i) updating cross-references, (ii) replacing legalese with plain English, (iii) fixing punctuation, (iv) making stylistic updates, (v) fixing the format of citations and lists, (vi) making language gender-neutral, (vii) reorganizing language, (viii) deleting technically unnecessary language, and (ix) clarifying ambiguous references. This act also makes technical, conforming, and modernizing amendments to the elective life estate statute.

EFFECTIVE DATE: This act became effective October 1, 2020. Parts I and II of this act apply to partition proceedings commenced on or after that date.

Kory Goldsmith
Director



Legislative Drafting
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