
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2232 Session of
2024

INTRODUCED BY RABB, N. NELSON, SANCHEZ, MADDEN, HILL-EVANS,
MCNEILL, KINKEAD AND PARKER, APRIL 24, 2024

REFERRED TO COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT,
APRIL 24, 2024

AN ACT

1 Amending Title 20 (Decedents, Estates and Fiduciaries) of the
2 Pennsylvania Consolidated Statutes, providing for uniform
3 partition of heirs property.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Title 20 of the Pennsylvania Consolidated
7 Statutes is amended by adding a chapter to read:

8 CHAPTER 21A

9 UNIFORM PARTITION OF HEIRS PROPERTY ACT

10 21A21. Short title of chapter.

11 21A22. Definitions.

12 21A23. Applicability and relation to other law.

13 21A24. Service and notice by posting.

14 21A25. Hearing officers.

15 21A26. Determination of value.

16 21A27. Cotenant buyout.

17 21A28. Partition alternatives.

18 21A29. Considerations for partition in kind.

1 21A30. Open-market sale, sealed bids or auction.

2 21A31. Report of open-market sale.

3 21A32. Uniformity of application and construction.

4 21A33. Relation to Electronic Signature in Global and National
5 Commerce Act.

6 § 21A21. Short title of chapter.

7 This chapter may be referred to as the Uniform Partition of
8 Heirs Property Act.

9 § 21A22. Definitions.

10 The following words and phrases when used in this chapter
11 shall have the meanings given to them in this section unless the
12 context clearly indicates otherwise:

13 "Ascendant." An individual who precedes another individual
14 in lineage, in the direct line of ascent from the other
15 individual.

16 "Collateral." An individual who is related to another
17 individual under the law of intestate succession of this
18 Commonwealth but who is not the other individual's ascendant or
19 descendant.

20 "Descendant." An individual who follows another individual
21 in lineage, in the direct line of descent from the other
22 individual.

23 "Determination of value." A court order determining the fair
24 market value of heirs property under section 21A26 (relating to
25 determination of value) or 21A30 (relating to open-market sale,
26 sealed bids or auction) or adopting the valuation of the
27 property agreed to by all cotenants.

28 "Heirs property." Real property held in tenancy in common
29 which satisfies all of the following requirements as of the
30 filing of a partition action:

1 (1) There is no agreement in a record binding all the
2 cotenants which governs the partition of the property.

3 (2) One or more of the cotenants acquired the title from
4 a relative, whether living or deceased.

5 (3) Any of the following applies:

6 (i) twenty percent or more of the interests are held
7 by cotenants who are relatives;

8 (ii) twenty percent or more of the interests are
9 held by an individual who acquired title from a relative,
10 whether living or deceased; or

11 (iii) twenty percent or more of the cotenants are
12 relatives.

13 "Partition by sale." A court-ordered sale of the entire
14 heirs property, whether by auction, sealed bids or open-market
15 sale conducted under section 21A30.

16 "Partition in kind." The division of heirs property into
17 physically separated titled parcels.

18 "Record." Information that is inscribed on a tangible medium
19 or that is stored in an electronic or other medium and is
20 retrievable in perceivable form.

21 "Relative." An ascendant, descendant or collateral or an
22 individual otherwise related to another individual by blood,
23 marriage, adoption or law of this Commonwealth other than this
24 chapter.

25 § 21A23. Applicability and relation to other law.

26 (a) General rule.--This chapter applies to partition actions
27 filed on or after the effective date of this section.

28 (b) Determination.--In an action to partition real property,
29 the court shall determine whether the property is heirs
30 property. If the court determines that the property is heirs

1 property, the property must be partitioned under this chapter
2 unless all the cotenants otherwise agree in a record.

3 (c) Supplementation.--This chapter supplements section 3534
4 (relating to distribution in kind) and, if an action is governed
5 by this chapter, it replaces the provisions of section 3534 that
6 are inconsistent with this chapter.

7 § 21A24. Service and notice by posting.

8 (a) General rule.--This chapter does not limit or affect the
9 method by which services of a complaint in a partition action
10 may be made.

11 (b) Notice and posting.--If the plaintiff in a partition
12 action seeks an order of notice by publication and the court
13 determines that the property may be heirs property, the
14 plaintiff, not later than 10 days after the court's
15 determination, shall post and maintain while the action is
16 pending a conspicuous sign on the property that is the subject
17 of the action. The sign shall state that the action has
18 commenced and identify the name and address of the court and the
19 common designation by which the property is known. The court may
20 require the plaintiff to publish on the sign the name of the
21 plaintiff and the known defendants.

22 § 21A25. Hearing officers.

23 If the court appoints hearing officers under Pa.R.C.P. No.
24 1558 (relating to preliminary conference. appointment of hearing
25 officer), each hearing officer, in addition to the requirements
26 and disqualifications applicable to hearing officers, must be
27 disinterested and impartial and not a party to or a participant
28 in the action.

29 § 21A26. Determination of value.

30 (a) General rule.--Except as otherwise provided in

1 subsections (b) and (c), if the court determines that the
2 property that is the subject of a partition action is heirs
3 property, the court shall determine the fair market value of the
4 property by ordering an appraisal under subsection (d).

5 (b) Agreement by cotenants.--If all cotenants have agreed to
6 the value of the property or to another method of valuation, the
7 court shall adopt that value or the value produced by the agreed
8 method of valuation.

9 (c) When determined by court.--If the court determines that
10 the evidentiary value of an appraisal is outweighed by the cost
11 of the appraisal, the court, after an evidentiary hearing, shall
12 determine the fair market value of the property and send notice
13 to the parties of the value.

14 (d) Appointment of appraiser.--If the court orders an
15 appraisal, the court shall appoint a disinterested real estate
16 appraiser licensed in this Commonwealth to determine the fair
17 market value of the property assuming sole ownership of the fee
18 simple estate. On completion of the appraisal, the appraiser
19 shall file a sworn or verified appraisal with the court.

20 (e) Notice.--If an appraisal is conducted under subsection
21 (d), not later than 10 days after the appraisal is filed, the
22 court shall send notice to each party with a known address,
23 stating:

24 (1) The appraised fair market value of the property.

25 (2) That the appraisal is available at the clerk's
26 office.

27 (3) That a party may file with the court an objection to
28 the appraisal not later than 30 days after the notice is
29 sent, stating the grounds for the objection.

30 (f) Hearing.--If an appraisal is filed with the court under

1 subsection (d), the court shall conduct a hearing to determine
2 the fair market value of the property not sooner than 30 days
3 after a copy of the notice of the appraisal is sent to each
4 party under subsection (e), whether or not an objection to the
5 appraisal is filed under subsection (e)(3). In addition to the
6 court-ordered appraisal, the court may consider any other
7 evidence of value offered by a party.

8 (g) Posthearing determination and notice.--After a hearing
9 under subsection (f), but before considering the merits of the
10 partition action, the court shall determine the fair market
11 value of the property and send notice to the parties of the
12 value.

13 § 21A27. Cotenant buyout.

14 (a) Initial notice to parties.--If a cotenant requested
15 partition by sale, after the determination of value under
16 section 21A26 (relating to determination of value), the court
17 shall send notice to the parties that any cotenant except a
18 cotenant that requested partition by sale may buy all the
19 interests of the cotenants that requested partition by sale.

20 (b) Cotenant notice to court.--Not later than 45 days after
21 the notice is sent under subsection (a), any cotenant except a
22 cotenant that requested partition by sale may give notice to the
23 court that it elects to buy all the interests of the cotenants
24 that requested partition by sale.

25 (c) Purchase price.--The purchase price for each of the
26 interests of a cotenant that requested partition by sale is the
27 value of the entire parcel determined under section 21A26
28 multiplied by the cotenant's fractional ownership of the entire
29 parcel.

30 (d) Subsequent court notice to parties.--After expiration of

1 the period in subsection (b), the following rules apply:

2 (1) If only one cotenant elects to buy all the interests
3 of the cotenants that requested partition by sale, the court
4 shall notify all the parties of that fact.

5 (2) If more than one cotenant elects to buy all the
6 interests of the cotenants that requested partition by sale,
7 the court shall allocate the right to buy those interests
8 among the electing cotenants based on each electing
9 cotenant's existing fractional ownership of the entire parcel
10 divided by the total existing fractional ownership of all
11 cotenants electing to buy and send notice to all the parties
12 of that fact and of the price to be paid by each electing
13 cotenant.

14 (3) If no cotenant elects to buy all the interests of
15 the cotenants that requested partition by sale, the court
16 shall send notice to all the parties of that fact and resolve
17 the partition action under section 21A28(a) and (b) (relating
18 to partition alternatives).

19 (e) Payment and effect.--If the court sends notice to the
20 parties under subsection (d) (1) or (2), the court shall set a
21 date, not sooner than 60 days after the date the notice was
22 sent, by which electing cotenants must pay their apportioned
23 price into the court. After this date, the following rules
24 apply:

25 (1) If all electing cotenants timely pay their
26 apportioned price into court, the court shall issue an order
27 reallocating all the interests of the cotenants and disburse
28 the amounts held by the court to the persons entitled to
29 them.

30 (2) If no electing cotenant timely pays its apportioned

1 price, the court shall resolve the partition action under
2 section 21A28(a) and (b) as if the interests of the cotenants
3 that requested partition by sale were not purchased.

4 (3) If one or more but not all of the electing cotenants
5 fail to pay their apportioned price on time, the court shall
6 give notice to the electing cotenants that paid their
7 apportioned price of the interest remaining and the price for
8 all that interest.

9 (f) Purchase of remaining interest.--Not later than 20 days
10 after the court gives notice under subsection (e)(3), a cotenant
11 that paid may elect to purchase all of the remaining interest by
12 paying the entire price into the court. After the 20-day period,
13 the following rules apply:

14 (1) If only one cotenant pays the entire price for the
15 remaining interest, the court shall issue an order
16 reallocating the remaining interest to that cotenant. The
17 court shall issue promptly an order reallocating the
18 interests of all of the cotenants and disburse the amounts
19 held by it to the persons entitled to them.

20 (2) If no cotenant pays the entire price for the
21 remaining interest, the court shall resolve the partition
22 action under section 21A28(a) and (b) as if the interests of
23 the cotenants that requested partition by sale were not
24 purchased.

25 (3) If more than one cotenant pays the entire price for
26 the remaining interest, the court shall reapportion the
27 remaining interest among those paying cotenants, based on
28 each paying cotenant's original fractional ownership of the
29 entire parcel divided by the total original fractional
30 ownership of all cotenants that paid the entire price for the

1 remaining interest. The court shall issue promptly an order
2 reallocating all of the cotenants' interests, disburse the
3 amounts held by it to the persons entitled to them and
4 promptly refund any excess payment held by the court.

5 (g) Request to authorize sale.--Not later than 45 days after
6 the court sends notice to the parties under subsection (a), a
7 cotenant entitled to buy an interest under this section may
8 request the court to authorize the sale as part of the pending
9 action of the interests of cotenants named as defendants and
10 served with the complaint but that did not appear in the action.

11 (h) Denial of request or authorization of sale.--If the
12 court receives a timely request under subsection (g), the court,
13 after hearing, may deny the request or authorize the requested
14 additional sale on such terms as the court determines are fair
15 and reasonable, subject to the following limitations:

16 (1) A sale authorized under this subsection may occur
17 only after the purchase prices for all interests subject to
18 sale under subsections (a), (b), (c), (d), (e) and (f) have
19 been paid into court and those interests have been
20 reallocated among the cotenants as provided in those
21 subsections.

22 (2) The purchase price for the interest of a non-
23 appearing cotenant is based on the court's determination of
24 value under section 21A26.

25 § 21A28. Partition alternatives.

26 (a) Partition in kind.--If all the interests of all
27 cotenants that requested partition by sale are not purchased by
28 other cotenants under section 21A27 (relating to cotenant
29 buyout), or if after conclusion of the buyout under section
30 21A27, a cotenant remains that has requested partition in kind,

1 the court shall order partition in kind unless the court, after
2 consideration of the factors listed in section 21A29 (relating
3 to considerations for partition in kind), finds that partition
4 in kind will result in prejudice to the cotenants as a group. In
5 considering whether to order partition in kind, the court shall
6 approve a request by two or more parties to have their
7 individual interests aggregated.

8 (b) Partition by sale or dismissal of action.--If the court
9 does not order partition in kind under subsection (a), the court
10 shall order partition by sale under section 21A30 (relating to
11 open-market sale, sealed bids or auction) or, if no cotenant
12 requested partition by sale, the court shall dismiss the action.

13 (c) Payments.--If the court orders partition in kind under
14 subsection (a), the court may require that one or more cotenants
15 pay one or more other cotenants amounts so that the payments,
16 taken together with the value of the in-kind distributions to
17 the cotenants, will make the partition in kind just and
18 proportionate in value to the fractional interests held.

19 (d) Allocation of interests among unknown, unlocatable or
20 defaulting cotenants.--If the court orders partition in kind,
21 the court shall allocate to the cotenants that are unknown,
22 unlocatable or the subject of a default judgment, if their
23 interests were not bought out under section 21A27, a part of the
24 property representing the combined interests of these cotenants
25 as determined by the court and this part of the property shall
26 remain undivided.

27 § 21A29. Considerations for partition in kind.

28 (a) General rule.--In determining under section 21A28(a)
29 (relating to partition alternatives) whether partition in kind
30 would result in prejudice to the cotenants as a group, the court

1 shall consider the following:

2 (1) whether the heirs property practicably can be
3 divided among the cotenants;

4 (2) whether partition in kind would apportion the
5 property in such a way that the aggregate fair market value
6 of the parcels resulting from the division would be
7 materially less than the value of the property if it were
8 sold as a whole, taking into account the condition under
9 which a court-ordered sale likely would occur;

10 (3) evidence of the collective duration of ownership or
11 possession of the property by a cotenant and one or more
12 predecessors in title or predecessors in possession to the
13 cotenant who are or were relatives of the cotenant or each
14 other;

15 (4) a cotenant's sentimental attachment to the property,
16 including any attachment arising because the property has
17 ancestral or other unique or special value to the cotenant;

18 (5) the lawful use being made of the property by a
19 cotenant and the degree to which the cotenant would be harmed
20 if the cotenant could not continue the same use of the
21 property;

22 (6) the degree to which the cotenants have contributed
23 their pro rata share of the property taxes, insurance and
24 other expenses associated with maintaining ownership of the
25 property or have contributed to the physical improvement,
26 maintenance or upkeep of the property; and

27 (7) any other relevant factor.

28 (b) Weighing totality of considerations.--The court may not
29 consider any one factor in subsection (a) to be dispositive
30 without weighing the totality of all relevant factors and

1 circumstances.

2 § 21A30. Open-market sale, sealed bids or auction.

3 (a) General rule.--If the court orders a sale of heirs
4 property, the sale must be an open-market sale unless the court
5 finds that a sale by sealed bids or an auction would be more
6 economically advantageous and in the best interest of the
7 cotenants as a group.

8 (b) Appointment of broker.--If the court orders an open-
9 market sale and the parties, not later than 10 days after the
10 entry of the order, agree on a real estate broker licensed in
11 this Commonwealth to offer the property for sale, the court
12 shall appoint the broker and establish a reasonable commission.
13 If the parties do not agree on a broker, the court shall appoint
14 a disinterested real estate broker licensed in this Commonwealth
15 to offer the property for sale and shall establish a reasonable
16 commission. The broker shall offer the property for sale in a
17 commercially reasonable manner at a price no lower than the
18 determination of value and on the terms and conditions
19 established by the court.

20 (c) Offer to purchase obtained.--If the broker appointed
21 under subsection (b) obtains within a reasonable time an offer
22 to purchase the property for at least the determination of
23 value:

24 (1) The broker shall comply with the reporting
25 requirements in section 21A31 (relating to report of open-
26 market sale).

27 (2) The sale may be completed in accordance with the
28 laws of this Commonwealth.

29 (d) Options to court when no offer obtained.--If the broker
30 appointed under subsection (b) does not obtain within a

1 reasonable time an offer to purchase the property for at least
2 the determination of value, the court, after hearing, may:

3 (1) approve the highest outstanding offer, if any;

4 (2) redetermine the value of the property and order that
5 the property continue to be offered for an additional time;

6 or

7 (3) order that the property be sold by sealed bids or at
8 an auction.

9 (e) Sale by sealed bid or auction.--If the court orders a
10 sale by sealed bids or an auction, the court shall set terms and
11 conditions of the sale. If the court orders an auction, the
12 auction must be conducted under 68 Pa.C.S. § 2306(c) (relating
13 to effect of certification of vacancy and abandonment).

14 (f) Purchaser credit authorized.--If a purchaser is entitled
15 to a share of the proceeds of the sale, the purchaser is
16 entitled to a credit against the price in an amount equal to the
17 purchaser's share of the proceeds.

18 § 21A31. Report of open-market sale.

19 (a) Duty of broker.--Unless required to do so within a
20 shorter time, a broker appointed under section 21A30(b)
21 (relating to open-market sale, sealed bids or auction) to offer
22 heirs property for open-market sale shall file a report with the
23 court not later than seven days after receiving an offer to
24 purchase the property for at least the value determined under
25 section 21A26 (relating to determination of value) or 21A30.

26 (b) Content of report.--The report required by subsection
27 (a) shall contain the following information:

28 (1) A description of the property to be sold to each
29 buyer.

30 (2) The name of each buyer.

- 1 (3) The proposed purchase price.
- 2 (4) The terms and conditions of the proposed sale,
3 including the terms of any owner financing.
- 4 (5) The amount to be paid to lienholders.
- 5 (6) A statement of contractual or other arrangements or
6 conditions of the broker's commission.
- 7 (7) Other material facts relevant to the sale.

8 § 21A32. Uniformity of application and construction.

9 In applying and construing this uniform act, consideration
10 shall be given to the need to promote uniformity of the law with
11 respect to its subject matter among states that enact it.

12 § 21A33. Relation to Electronic Signature in Global and
13 National Commerce Act.

14 (a) General rule.--Except as provided for in subsection (b),
15 this chapter modifies, limits or supersedes the Electronic
16 Signatures in Global and National Commerce Act (Public Law 106-
17 229, 15 U.S.C. § 7001 et seq.).

18 (b) Exceptions.--

19 (1) This chapter does not modify, limit or supersede
20 section 101(c) of the Electronic Signatures in Global and
21 National Commerce Act (15 U.S.C. § 7001(c)).

22 (2) This chapter does not authorize electronic delivery
23 of any of the notices described in section 103(b) of the
24 Electronic Signatures in Global and National Commerce Act (15
25 U.S.C. § 7003(b)).

26 Section 2. This act shall take effect in 60 days.