2A:56-45 to 2A:56-56
LEGISLATIVE HISTORY CHECKLIST
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LAWS OF: 2025 **CHAPTER:** 88

NJSA: 2A:56-45 to 2A:56-56 "Uniform Partition of Heirs Property Act"; provides alternative process for handling partition actions filed in court concerning real property with multiple owners, at least one of whom had acquired title from relative.

BILL NO: S1400 (Substituted for A5448)

SPONSOR(S) Singleton, Troy and others

DATE INTRODUCED: 1/9/2024

COMMITTEE: **ASSEMBLY:** Judiciary

SENATE: Judiciary

AMENDED DURING PASSAGE: No

DATE OF PASSAGE: **ASSEMBLY:** 05/22/2025

SENATE: 03/24/2025

DATE OF APPROVAL: 7/8/2025

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (S1400 enacted)

ADVANCE LAW Yes

PAMPHLET LAW Yes

S1400

INTRODUCED BILL: (Includes sponsor(s) statement) Yes

REPRINT(S): No

TECHNICAL REVIEW OF BILL: Yes SJU 6/28/24 TR

COMMITTEE STATEMENT: **ASSEMBLY**: Yes

SENATE: Yes

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, ***may possibly*** be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

A5448

INTRODUCED BILL: (Includes sponsor(s) statement) Yes

REPRINT(S): No

TECHNICAL REVIEW OF BILL:		No
COMMITTEE STATEMENT:	**ASSEMBLY**:	Yes
	SENATE:	No

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, ***may possibly*** be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT:	No
LEGISLATIVE FISCAL ESTIMATE:	No
VETO MESSAGE:	No
GOVERNOR'S PRESS RELEASE ON SIGNING:	Yes
LEGISLATOR STATEMENT:	No

FOLLOWING WERE PRINTED:

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REPORTS:	No
HEARINGS:	No
NEWSPAPER ARTICLES:	No

CL/MMcB

Title 2A
Chapter 56
Article 7 (New)
Heirs Property
Acquired from
Relative
§§1-12
C.2A:56-45 to
2A:56-56
§13
Note

P.L. 2025, CHAPTER 88, ***approved July 8, 2025***
Senate, No. 1400

AN ACT concerning partition actions involving certain real property and supplementing chapter 56 of Title 2A of the New Jersey Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. This act shall be known and may be cited as the "Uniform Partition of Heirs Property Act."

2. As used in this act:

"Ascendant" means an individual who precedes another individual in lineage, in the direct line of ascent from the other individual.

"Collateral" means an individual who is related to another individual under the law of intestate succession of this State but who is not the other individual's ascendant or descendant.

"Descendant" means an individual who follows another individual in lineage, in the direct line of descent from the other individual.

"Determination of value" means a court order determining the fair market value of heirs property under section 6 or 10 of this act or adopting the valuation of the property agreed to by all cotenants.

"Heirs property" means real property held in tenancy in common which satisfies all of the following requirements as of the filing of a partition action: (1) there is no agreement in a record binding all the cotenants which governs the partition of the property; (2) one or more of the cotenants acquired title from a relative, whether living or deceased; and (3) any of the following applies: (a) 20 percent or more of the interests are held by cotenants who are relatives; (b) 20 percent or more of the interests are held by an individual who acquired title from a relative, whether living or deceased; or (c) 20 percent or more of the cotenants are relatives.

"Partition by sale" means a court-ordered sale of the entire heirs property, whether by auction, sealed bids, or open-market sale conducted under section 10 of this act.

"Partition in kind" means the division of heirs property into physically distinct and separately titled parcels.

"Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

"Relative" means an ascendant, descendant, or collateral or an individual otherwise related to another individual by blood, marriage, adoption, or law of this State other than this act.

3. a. In an action to partition real property under N.J.S.2A:56-1 et seq., the court shall determine whether the property is heirs property. In making this determination, the court shall rely on information contained in the pleadings, or any other information provided to the court pursuant to the Rules of Court. If the court determines that the property is heirs property, pursuant to the Rules of Court, the court shall appoint a special master and may, when appropriate, appoint a commissioner or commissioners to partition the property under the partition process set forth in this act unless all of the cotenants otherwise agree in writing.

b. This act is a supplement to N.J.S.2A:56-1 et seq. and if a partition action is governed by this act, it preempts the provisions of N.J.S.2A:56-1 et seq. that are inconsistent with this act.

4. If the plaintiff in a partition action seeks an order of notice by publication and the court determines that the property may be heirs property, the court shall order the plaintiff to post and maintain while the action is pending a conspicuous notice on the property that is the subject of the action in accordance with the Rules of Court. The notice shall state that a partition action has commenced and identify the name and address of the court and the common designation by which the property is known. The court may require the plaintiff to publish on the notice the name of the plaintiff and the known defendants.

5. If the court appoints a commissioner or commissioners pursuant to N.J.S.2A:56-1 et seq. and the Rules of Court, each commissioner shall be disinterested, impartial, and not a party to or a participant in the partition action.

6. a. (1) Except as otherwise provided in subsection b. of this section, if the court determines that the property involved in a partition action is heirs property, the special master shall direct a determination of the property's fair market value, assuming sole ownership of the fee simple estate, be made by a disinterested real estate appraiser licensed in this State. On completion of the appraisal, the appraiser shall distribute the appraisal to the parties and file a sworn or verified appraisal with the special master.

(2) Within 30 days after an appraisal is filed, the parties may file objections with the special master.

(3) Following notice in accordance with the Rules of Court, the special master may conduct an appraisal hearing to determine the fair market value of the property. In addition to the appraisal, the special master may consider any other evidence offered by a party.

b. If all cotenants have agreed to the value of the property or to another method of valuation, the special master may accept that value or the value produced by the agreed method of valuation.

7. a. If any cotenant requests partition by sale, after the determination of value under section 6 of this act, the party filing the partition action shall send written notice to the parties and the special master within 30 days that any cotenant, except a cotenant that requested partition by sale, may buy all of the interests of the cotenants that requested partition by sale.

b. Not later than 45 days after the written notice is sent under subsection a. of this section, any cotenant except a cotenant that requested partition by sale may give written notice to the parties and the special master that it elects to buy all of the interests of the cotenants that requested partition by sale.

c. The purchase price for each of the interests of a cotenant that requested partition by sale is the value of the entire parcel determined under section 6 of this act multiplied by the cotenant's fractional ownership of the entire parcel.

d. After expiration of the buyout notice period set in subsection b. of this section, the following shall apply:

(1) If only one cotenant elects to buy all the interests of the cotenants that requested partition by sale, the cotenant shall notify all the parties and the special master in writing of that fact.

(2) If more than one cotenant elects to buy all the interests of the cotenants that requested partition by sale, the special master shall allocate the right to buy those interests among the electing cotenants based on each electing cotenant's existing fractional ownership of the entire parcel divided by the total existing fractional ownership of all cotenants electing to buy, and send written notice to all the parties of that fact and of the price to be paid by each electing cotenant.

(3) If no cotenant elects to buy all the interests of the cotenants that requested partition by sale, the special master with notice to the parties shall report in writing to the court. The court shall resolve the partition action, by order, in accordance with subsections a. and b. of section 8 of this act.

e. If the parties under paragraph (1) or (2) of subsection d. of this section elect to buy all the interests, the cotenants shall be required to pay their apportioned price within 60 days to the Superior Court Trust Fund, in accordance with the procedures set forth in the Rules of Court. After this date, the following shall apply:

(1) If all electing cotenants timely pay their apportioned price, the special master shall issue an order reallocating all the interests of the cotenants and authorizing the disbursement of the amounts held by the Superior Court Trust Fund, in accordance with the procedures set forth in the Rules of Court, to the persons entitled to them.

(2) If no electing cotenant timely pays its apportioned price, the special master shall report to the court in writing with written notice to the parties. The court shall resolve the partition action, by order, under subsections a. and b. of section 8 of this act as if the interests of the cotenants that requested partition by sale were not purchased.

(3) If one or more but not all of the electing cotenants fail to pay their apportioned price on time, the electing cotenants that paid their apportioned price of the interest may file a motion with the special master to determine the remaining interests and prices.

f. Within 45 days following any order of the special master entered pursuant to paragraph (3) of subsection e. of this section, any cotenant that paid may elect to purchase all of the remaining interest by paying the entire price with notice to the special master. After this date, the following shall apply:

(1) If only one cotenant pays the entire price for the remaining interests, the special master shall issue an order reallocating the remaining interest to that cotenant and requiring refund of any excess payments.

(2) If no cotenant pays the entire price for the remaining interests, the special master shall report to the court in writing with written notice to the parties. The court shall resolve the partition action under subsection a. and b. of section 8 of this act as if the interests of the cotenants that requested partition by sale were not purchased.

(3) If more than one cotenant pays the entire price for the remaining interests, the special master shall reapportion the remaining interests among those paying cotenants, based on each paying cotenant's original fractional ownership of the entire parcel divided by the total original fractional ownership of all cotenants that paid the entire price for the remaining interests. The special master shall report to the court in writing with written notice to the parties. The court shall issue an order reallocating all of the cotenants' interests and requiring refund of any excess payments.

g. Not later than 30 days after notices have been sent pursuant to subsection a. of this section, any cotenant entitled to buy an interest under this section may request the special master to authorize the sale as part of the pending action of the interests of cotenants named as defendants and served with the complaint but that did not appear in the action.

h. If the special master receives a timely request under subsection g. of this section, the special master, after a hearing, may deny the request or authorize the requested additional sale on terms as the special master determines are fair and reasonable, subject to the following limitations:

(1) A sale authorized under this subsection may occur only after the purchase prices for all interests subject to sale under subsections a. through f. of this section have been paid into the Superior Court Trust Fund and those interests have been reallocated among the cotenants as provided in those subsections. Any funds deposited into the Trust Fund pursuant to this section shall be distributed in accordance with the procedures set forth in the Rules of Court; and

(2) The purchase price for the interest of a non-appearing cotenant is based on the special master's determination of value under section 6 of this act.

8. a. If all the interests of all cotenants that requested partition by sale are not purchased by other cotenants pursuant to section 7 of this act, or if after conclusion of the buyout period under that section, a cotenant remains that has requested partition in kind, the special master shall report to the court recommending partition in kind. The court shall order partition in kind, unless the court, after consideration of the factors listed in section 9 of this act, finds that partition in kind will result in great prejudice to the cotenants as a group. In considering whether to order partition in kind, the court shall approve a request by two or more parties to have their individual interests aggregated.

b. If the court does not order partition in kind under subsection a. of this section, the court shall order partition by sale pursuant to section 10 of this act or, if no cotenant requested partition by sale, the court shall dismiss the action.

c. If the court orders partition in kind pursuant to subsection a. of this section, the court may require that one or more cotenants pay one or more other cotenants amounts so that the payments, taken together with the value of the in-kind distributions to the cotenants, make the partition in kind just and proportionate in value to the fractional interests held.

d. If the court orders partition in kind pursuant to subsection a. of this section, the court shall allocate to the cotenants that are unknown, un-locatable, or the subject of a default judgment, if their interests were not bought out pursuant to section 7 of this act, a part of the property representing the combined interests of these cotenants as determined by the court.

9. a. In determining under subsection a. of section 8 of this act whether partition in kind would result in great prejudice to the cotenants as a group, the court shall consider the following:

(1) Whether the heirs property practicably can be divided among the cotenants;

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

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

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

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

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

(7) any other relevant factor as determined by the court.

b. The court may not consider any one factor in subsection a. of this section to be dispositive without weighing the totality of all relevant factors and circumstances.

10. a. If the court orders a sale of heirs property, the sale shall be an open-market sale unless the court finds that a sale by sealed bids or an auction would be more economically advantageous and in the best interest of the cotenants as a group.

b. If the court orders an open-market sale and the parties, not later than 10 days after the entry of the order, agree on a real estate broker licensed in this State to offer the property for sale, the court shall appoint the broker and establish a reasonable commission. If the parties do not agree on a broker, the court shall appoint a disinterested real estate broker licensed in this State to offer the property for sale and shall establish a reasonable commission. The broker shall offer the property for sale in a commercially reasonable manner at a price no lower than its determination of value pursuant to section 6 of this act and on the terms and conditions established by the court.

c. If the broker appointed under subsection b. of this section obtains, within a reasonable time, an offer to purchase the property for at least the determination of value:

(1) The broker shall comply with the reporting requirements in section 11 of this act; and

(2) The sale may be completed in accordance with State law other than this act.

d. If the broker appointed under subsection b. of this section does not obtain, within a reasonable time, an offer to purchase the property for at least the determination of value, the court, after hearing, may:

(1) Approve the highest outstanding offer, if any;

(2) Re-determine the value of the property and order that the property continue to be offered for an additional time; or

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

e. If the court orders a sale by sealed bids or an auction, the court shall set terms and conditions of the sale.

f. If a purchaser is entitled to a share of the proceeds of the sale, the purchaser is entitled to a credit against the price in an amount equal to the purchaser's share of the proceeds.

11. a. Unless otherwise required to do so within a shorter time, a broker appointed under subsection b. of section 10 of this act to offer heirs property by open-market sale shall file a report with the court not later than seven days after receiving an offer to purchase the property for at least the value determined under section 6 or 10 of this act.

b. The report required by subsection a. of this section shall contain the following information:

(1) A description of the property to be sold to each buyer;

(2) The name of each buyer;

(3) The proposed purchase price;

(4) The terms and conditions of the proposed sale, including the terms of any owner financing;

(5) The amounts to be paid to lienholders;

(6) A statement of contractual or other arrangements or conditions of the broker's commission; and

(7) Any other material facts relevant to the sale.

12. This act modifies, limits, and supersedes the federal "Electronic Signatures in Global and National Commerce Act," 15 U.S.C. section 7001 et seq., but does not modify, limit, or supersede section 101(c) of that act, 15 U.S.C. section 7001(c), or authorize electronic delivery of any of the notices described in section 103(b) of that act, 15 U.S.C. section 7003(b).

13. This act shall take effect on the 30th day next following enactment, and apply to any partition actions filed on or after that date.

"Uniform Partition of Heirs Property Act"; provides alternative process for handling partition actions filed in court concerning real property with multiple owners, at least one of whom had acquired title from relative.

CHAPTER 88

AN ACT concerning partition actions involving certain real property and supplementing chapter 56 of Title 2A of the New Jersey Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

C.2A:56-45 Short title.

1. This act shall be known and may be cited as the "Uniform Partition of Heirs Property Act."

C.2A:56-46 Definitions.

2. As used in this act:

"Ascendant" means an individual who precedes another individual in lineage, in the direct line of ascent from the other individual.

"Collateral" means an individual who is related to another individual under the law of intestate succession of this State, but who is not the other individual's ascendant or descendant.

"Descendant" means an individual who follows another individual in lineage in the direct line of descent from the other individual.

"Determination of value" means a court order determining the fair market value of heirs property under section 6 or 10 of this act or adopting the valuation of the property agreed to by all cotenants.

"Heirs property" means real property held in tenancy in common which satisfies all of the following requirements as of the filing of a partition action: (1) there is no agreement in a record binding all the cotenants which governs the partition of the property; (2) one or more of the cotenants acquired title from a relative, whether living or deceased; and (3) any of the following applies: (a) 20 percent or more of the interests are held by cotenants who are relatives; (b) 20 percent or more of the interests are held by an individual who acquired title from a relative, whether living or deceased; or (c) 20 percent or more of the cotenants are relatives.

"Partition by sale" means a court-ordered sale of the entire heirs property, whether by auction, sealed bids, or open-market sale conducted under section 10 of this act.

"Partition in kind" means the division of heirs property into physically distinct and separately titled parcels.

"Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

"Relative" means an ascendant, descendant, or collateral or an individual otherwise related to another individual by blood, marriage, adoption, or law of this State other than this act.

C.2A:56-47 Court determination of heirs property, partition of real property.

3. a. In an action to partition real property under N.J.S.2A:56-1 et seq., the court shall determine whether the property is heirs property. In making this determination, the court shall rely on information contained in the pleadings or any other information provided to the court pursuant to the Rules of Court. If the court determines that the property is heirs property, pursuant to the Rules of Court, the court shall appoint a special master and may, when appropriate, appoint a commissioner or commissioners to partition the property under the partition process set forth in this act unless all of the cotenants otherwise agree in writing.

b. This act is a supplement to N.J.S.2A:56-1 et seq. and if a partition action is governed by this act, it preempts the provisions of N.J.S.2A:56-1 et seq. that are inconsistent with this act.

C.2A:56-48 Plaintiff seeking order of notice by publication, heirs property, conspicuous notice.

4. If the plaintiff in a partition action seeks an order of notice by publication and the court determines that the property may be heirs property, the court shall order the plaintiff to post and maintain while the action is pending a conspicuous notice on the property that is the subject of the action in accordance with the Rules of Court. The notice shall state that a partition action has commenced and identify the name and address of the court and the common designation by which the property is known. The court may require the plaintiff to publish on the notice the name of the plaintiff and the known defendants.

C.2A:56-49 Commissioners appointed, impartiality, partition action.

5. If the court appoints a commissioner or commissioners pursuant to N.J.S.2A:56-1 et seq. and the Rules of Court, each commissioner shall be disinterested, impartial, and not a party to or a participant in the partition action.

C.2A:56-50 Heirs property in partition action, fair market value determination.

6. a. (1) Except as otherwise provided in subsection b. of this section, if the court determines that the property involved in a partition action is heirs property, the special master shall direct a determination of the property's fair market value, assuming sole ownership of the fee simple estate, be made by a disinterested real estate appraiser licensed in this State. On completion of the appraisal, the appraiser shall distribute the appraisal to the parties and file a sworn or verified appraisal with the special master.

(2) Within 30 days after an appraisal is filed, the parties may file objections with the special master.

(3) Following notice in accordance with the Rules of Court, the special master may conduct an appraisal hearing to determine the fair market value of the property. In addition to the appraisal, the special master may consider any other evidence offered by a party.

b. If all cotenants have agreed to the value of the property or to another method of valuation, the special master may accept that value or the value produced by the agreed method of valuation.

C.2A:56-51 Partition by sale, written notice sent to parties, special master.

7. a. If any cotenant requests partition by sale, after the determination of value under section 6 of this act, the party filing the partition action shall send written notice to the parties and the special master within 30 days that any cotenant, except a cotenant that requested partition by sale, may buy all of the interests of the cotenants that requested partition by sale.

b. Not later than 45 days after the written notice is sent under subsection a. of this section, any cotenant except a cotenant that requested partition by sale may give written notice to the parties and the special master that it elects to buy all of the interests of the cotenants that requested partition by sale.

c. The purchase price for each of the interests of a cotenant that requested partition by sale is the value of the entire parcel determined under section 6 of this act multiplied by the cotenant's fractional ownership of the entire parcel.

d. After expiration of the buyout notice period set in subsection b. of this section, the following shall apply:

(1) If only one cotenant elects to buy all the interests of the cotenants that requested partition by sale, the cotenant shall notify all the parties and the special master in writing of that fact.

(2) If more than one cotenant elects to buy all the interests of the cotenants that requested partition by sale, the special master shall allocate the right to buy those interests among the

electing cotenants based on each electing cotenant's existing fractional ownership of the entire parcel divided by the total existing fractional ownership of all cotenants electing to buy and send written notice to all the parties of that fact and of the price to be paid by each electing cotenant.

(3) If no cotenant elects to buy all the interests of the cotenants that requested partition by sale, the special master with notice to the parties shall report in writing to the court. The court shall resolve the partition action, by order, in accordance with subsections a. and b. of section 8 of this act.

e. If the parties under paragraph (1) or (2) of subsection d. of this section elect to buy all the interests, the cotenants shall be required to pay their apportioned price within 60 days to the Superior Court Trust Fund, in accordance with the procedures set forth in the Rules of Court. After this date, the following shall apply:

(1) If all electing cotenants timely pay their apportioned price, the special master shall issue an order reallocating all the interests of the cotenants and authorizing the disbursement of the amounts held by the Superior Court Trust Fund, in accordance with the procedures set forth in the Rules of Court, to the persons entitled to them.

(2) If no electing cotenant timely pays its apportioned price, the special master shall report to the court in writing with written notice to the parties. The court shall resolve the partition action, by order, under subsections a. and b. of section 8 of this act as if the interests of the cotenants that requested partition by sale were not purchased.

(3) If one or more but not all of the electing cotenants fail to pay their apportioned price on time, the electing cotenants that paid their apportioned price of the interest may file a motion with the special master to determine the remaining interests and prices.

f. Within 45 days following any order of the special master entered pursuant to paragraph (3) of subsection e. of this section, any cotenant that paid may elect to purchase all of the remaining interest by paying the entire price with notice to the special master. After this date, the following shall apply:

(1) If only one cotenant pays the entire price for the remaining interests, the special master shall issue an order reallocating the remaining interest to that cotenant and requiring refund of any excess payments.

(2) If no cotenant pays the entire price for the remaining interests, the special master shall report to the court in writing with written notice to the parties. The court shall resolve the partition action under subsection a. and b. of section 8 of this act as if the interests of the cotenants that requested partition by sale were not purchased.

(3) If more than one cotenant pays the entire price for the remaining interests, the special master shall reapportion the remaining interests among those paying cotenants, based on each paying cotenant's original fractional ownership of the entire parcel divided by the total original fractional ownership of all cotenants that paid the entire price for the remaining interests. The special master shall report to the court in writing with written notice to the parties. The court shall issue an order reallocating all of the cotenants' interests and requiring refund of any excess payments.

g. Not later than 30 days after notices have been sent pursuant to subsection a. of this section, any cotenant entitled to buy an interest under this section may request the special master to authorize the sale as part of the pending action of the interests of cotenants named as defendants and served with the complaint, but that did not appear in the action.

h. If the special master receives a timely request under subsection g. of this section, the special master, after a hearing, may deny the request or authorize the requested additional sale on terms as the special master determines are fair and reasonable, subject to the following limitations:

(1) A sale authorized under this subsection may occur only after the purchase prices for all interests subject to sale under subsections a. through f. of this section have been paid into the Superior Court Trust Fund and those interests have been reallocated among the cotenants as provided in those subsections. Any funds deposited into the Trust Fund pursuant to this section shall be distributed in accordance with the procedures set forth in the Rules of Court; and

(2) The purchase price for the interest of a non-appearing cotenant is based on the special master's determination of value under section 6 of this act.

C.2A:56-52 Partition in kind recommended, certain circumstances, special master report.

8. a. If all the interests of all cotenants that requested partition by sale are not purchased by other cotenants pursuant to section 7 of this act, or if after conclusion of the buyout period under that section, a cotenant remains that has requested partition in kind, the special master shall report to the court recommending partition in kind. The court shall order partition in kind, unless the court, after consideration of the factors listed in section 9 of this act, finds that partition in kind will result in great prejudice to the cotenants as a group. In considering whether to order partition in kind, the court shall approve a request by two or more parties to have their individual interests aggregated.

b. If the court does not order partition in kind under subsection a. of this section, the court shall order partition by sale pursuant to section 10 of this act or, if no cotenant requested partition by sale, the court shall dismiss the action.

c. If the court orders partition in kind pursuant to subsection a. of this section, the court may require that one or more cotenants pay one or more other cotenants amounts so that the payments, taken together with the value of the in-kind distributions to the cotenants, make the partition in kind just and proportionate in value to the fractional interests held.

d. If the court orders partition in kind pursuant to subsection a. of this section, the court shall allocate to the cotenants that are unknown, un-locatable, or the subject of a default judgment, if their interests were not bought out pursuant to section 7 of this act, a part of the property representing the combined interests of these cotenants as determined by the court.

C.2A:56-53 Factors in determining great prejudice, cotenants, partition in kind,

9. a. In determining under subsection a. of section 8 of this act whether partition in kind would result in great prejudice to the cotenants as a group, the court shall consider the following:

(1) Whether the heirs property practicably can be divided among the cotenants;

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

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

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

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

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

(7) any other relevant factor as determined by the court.

b. The court may not consider any one factor in subsection a. of this section to be dispositive without weighing the totality of all relevant factors and circumstances.

C.2A:56-54 Sale of heirs property, circumstances, methods.

10. a. If the court orders a sale of heirs property, the sale shall be an open-market sale unless the court finds that a sale by sealed bids or an auction would be more economically advantageous and in the best interest of the cotenants as a group.

b. If the court orders an open-market sale and the parties, not later than 10 days after the entry of the order, agree on a real estate broker licensed in this State to offer the property for sale, the court shall appoint the broker and establish a reasonable commission. If the parties do not agree on a broker, the court shall appoint a disinterested real estate broker licensed in this State to offer the property for sale and shall establish a reasonable commission. The broker shall offer the property for sale in a commercially reasonable manner at a price no lower than its determination of value pursuant to section 6 of this act and on the terms and conditions established by the court.

c. If the broker appointed under subsection b. of this section obtains, within a reasonable time, an offer to purchase the property for at least the determination of value:

(1) The broker shall comply with the reporting requirements in section 11 of this act; and

(2) The sale may be completed in accordance with State law other than this act.

d. If the broker appointed under subsection b. of this section does not obtain, within a reasonable time, an offer to purchase the property for at least the determination of value, the court, after hearing, may:

(1) Approve the highest outstanding offer, if any;

(2) Re-determine the value of the property and order that the property continue to be offered for an additional time; or

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

e. If the court orders a sale by sealed bids or an auction, the court shall set terms and conditions of the sale.

f. If a purchaser is entitled to a share of the proceeds of the sale, the purchaser is entitled to a credit against the price in an amount equal to the purchaser's share of the proceeds.

C.2A:56-55 Appointed broker, sale of heirs property, open-market sale.

11. a. Unless otherwise required to do so within a shorter time, a broker appointed under subsection b. of section 10 of this act to offer heirs property by open-market sale shall file a report with the court not later than seven days after receiving an offer to purchase the property for at least the value determined under section 6 or 10 of this act.

b. The report required by subsection a. of this section shall contain the following information:

(1) A description of the property to be sold to each buyer;

(2) The name of each buyer;

(3) The proposed purchase price;

(4) The terms and conditions of the proposed sale, including the terms of any owner financing;

(5) The amounts to be paid to lienholders;

(6) A statement of contractual or other arrangements or conditions of the broker's commission; and

(7) Any other material facts relevant to the sale.

C.2A:56-56 Relation to "Electronic Signatures in Global and National Commerce Act."

12. This act modifies, limits, and supersedes the federal “Electronic Signatures in Global and National Commerce Act,” 15 U.S.C. section 7001 et seq., but does not modify, limit, or supersede section 101(c) of that act, 15 U.S.C. section 7001(c), or authorize electronic delivery of any of the notices described in section 103(b) of that act, 15 U.S.C. section 7003(b).

13. This act shall take effect on the 30th day next following enactment, and apply to any partition actions filed on or after that date.

Approved July 8, 2025.

SENATE, No. 1400

STATE OF NEW JERSEY

221st LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2024 SESSION

Sponsored by:
Senator TROY SINGLETON
District 7 (Burlington)
Senator ANDREW ZWICKER
District 16 (Hunterdon, Mercer, Middlesex and Somerset)

SYNOPSIS

"Uniform Partition of Heirs Property Act"; provides alternative process for handling partition actions filed in court concerning real property with multiple owners, at least one of whom had acquired title from relative.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.

AN ACT concerning partition actions involving certain real property and supplementing chapter 56 of Title 2A of the New Jersey Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. This act shall be known and may be cited as the "Uniform Partition of Heirs Property Act."

2. As used in this act:

"Ascendant" means an individual who precedes another individual in lineage, in the direct line of ascent from the other individual.

"Collateral" means an individual who is related to another individual under the law of intestate succession of this state but who is not the other individual's ascendant or descendant.

"Descendant" means an individual who follows another individual in lineage, in the direct line of descent from the other individual.

"Determination of value" means a court order determining the fair market value of heirs property under section 6 or 10 of this act or adopting the valuation of the property agreed to by all cotenants.

"Heirs property" means real property held in tenancy in common which satisfies all of the following requirements as of the filing of a partition action: (1) there is no agreement in a record binding all the cotenants which governs the partition of the property; (2) one or more of the cotenants acquired title from a relative, whether living or deceased; and (3) any of the following applies: (a) 20 percent or more of the interests are held by cotenants who are relatives; (b) 20 percent or more of the interests are held by an individual who acquired title from a relative, whether living or deceased; or (c) 20 percent or more of the cotenants are relatives.

"Partition by sale" means a court-ordered sale of the entire heirs property, whether by auction, sealed bids, or open-market sale conducted under section 10 of this act.

"Partition in kind" means the division of heirs property into physically distinct and separately titled parcels.

"Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

"Relative" means an ascendant, descendant, or collateral or an individual otherwise related to another individual by blood, marriage, adoption, or law of this State other than this act.

3. a. In an action to partition real property under N.J.S.2A:56-1 et seq., the court shall determine whether the property is heirs property. In making this determination, the court shall rely on information contained in the pleadings, or any other information provided to the court pursuant to the Rules of Court. If the court

determines that the property is heirs property, pursuant to the Rules of Court, the court shall appoint a special master and may, when appropriate, appoint a commissioner or commissioners to partition the property under the partition process set forth in this act unless all of the cotenants otherwise agree in writing.

b. This act is a supplement to N.J.S.2A:56-1 et seq. and if a partition action is governed by this act, it preempts the provisions of N.J.S.2A:56-1 et seq. that are inconsistent with this act.

4. If the plaintiff in a partition action seeks an order of notice by publication and the court determines that the property may be heirs property, the court shall order the plaintiff to post and maintain while the action is pending a conspicuous notice on the property that is the subject of the action in accordance with the Rules of Court. The notice shall state that a partition action has commenced and identify the name and address of the court and the common designation by which the property is known. The court may require the plaintiff to publish on the notice the name of the plaintiff and the known defendants.

5. If the court appoints a commissioner or commissioners pursuant to N.J.S.2A:56-1 et seq. and the Rules of Court, each commissioner shall be disinterested, impartial, and not a party to or a participant in the partition action.

6. a. (1) Except as otherwise provided in subsection b. of this section, if the court determines that the property involved in a partition action is heirs property, the special master shall direct a determination of the property's fair market value, assuming sole ownership of the fee simple estate, be made by a disinterested real estate appraiser licensed in this State. On completion of the appraisal, the appraiser shall distribute the appraisal to the parties and file a sworn or verified appraisal with the special master.

(2) Within 30 days after an appraisal is filed, the parties may file objections with the special master.

(3) Following notice in accordance with the Rules of Court, the special master may conduct an appraisal hearing to determine the fair market value of the property. In addition to the appraisal, the special master may consider any other evidence offered by a party.

b. If all cotenants have agreed to the value of the property or to another method of valuation, the special master may accept that value or the value produced by the agreed method of valuation.

7. a. If any cotenant requests partition by sale, after the determination of value under section 6 of this act, the party filing the partition action shall send written notice to the parties and the special master within 30 days that any cotenant, except a cotenant

that requested partition by sale, may buy all of the interests of the cotenants that requested partition by sale.

b. Not later than 45 days after the written notice is sent under subsection a. of this section, any cotenant except a cotenant that requested partition by sale may give written notice to the parties and the special master that it elects to buy all of the interests of the cotenants that requested partition by sale.

c. The purchase price for each of the interests of a cotenant that requested partition by sale is the value of the entire parcel determined under section 6 of this act multiplied by the cotenant's fractional ownership of the entire parcel.

d. After expiration of the buyout notice period set in subsection b. of this section, the following shall apply:

(1) If only one cotenant elects to buy all the interests of the cotenants that requested partition by sale, the cotenant shall notify all the parties and the special master in writing of that fact.

(2) If more than one cotenant elects to buy all the interests of the cotenants that requested partition by sale, the special master shall allocate the right to buy those interests among the electing cotenants based on each electing cotenant's existing fractional ownership of the entire parcel divided by the total existing fractional ownership of all cotenants electing to buy, and send written notice to all the parties of that fact and of the price to be paid by each electing cotenant.

(3) If no cotenant elects to buy all the interests of the cotenants that requested partition by sale, the special master with notice to the parties shall report in writing to the court. The court shall resolve the partition action, by order, in accordance with subsections a. and b. of section 8 of this act.

e. If the parties under paragraph (1) or (2) of subsection d. of this section elect to buy all the interests, the cotenants shall be required to pay their apportioned price within 60 days to the Superior Court Trust Fund, in accordance with the procedures set forth in the Rules of Court. After this date, the following shall apply:

(1) If all electing cotenants timely pay their apportioned price, the special master shall issue an order reallocating all the interests of the cotenants and authorizing the disbursement of the amounts held by the Superior Court Trust Fund, in accordance with the procedures set forth in the Rules of Court, to the persons entitled to them.

(2) If no electing cotenant timely pays its apportioned price, the special master shall report to the court in writing with written notice to the parties. The court shall resolve the partition action, by order, under subsections a. and b. of section 8 of this act as if the interests of the cotenants that requested partition by sale were not purchased.

(3) If one or more but not all of the electing cotenants fail to pay their apportioned price on time, the electing cotenants that paid

their apportioned price of the interest may file a motion with the special master to determine the remaining interests and prices.

f. Within 45 days following any order of the special master entered pursuant to paragraph (3) of subsection e. of this section, any cotenant that paid may elect to purchase all of the remaining interest by paying the entire price with notice to the special master. After this date, the following shall apply:

(1) If only one cotenant pays the entire price for the remaining interests, the special master shall issue an order reallocating the remaining interest to that cotenant and requiring refund of any excess payments.

(2) If no cotenant pays the entire price for the remaining interests, the special master shall report to the court in writing with written notice to the parties. The court shall resolve the partition action under subsection a. and b. of section 8 of this act as if the interests of the cotenants that requested partition by sale were not purchased.

(3) If more than one cotenant pays the entire price for the remaining interests, the special master shall reapportion the remaining interests among those paying cotenants, based on each paying cotenant's original fractional ownership of the entire parcel divided by the total original fractional ownership of all cotenants that paid the entire price for the remaining interests. The special master shall report to the court in writing with written notice to the parties. The court shall issue an order reallocating all of the cotenants' interests and requiring refund of any excess payments.

g. Not later than 30 days after notices have been sent pursuant to subsection a. of this section, any cotenant entitled to buy an interest under this section may request the special master to authorize the sale as part of the pending action of the interests of cotenants named as defendants and served with the complaint but that did not appear in the action.

h. If the special master receives a timely request under subsection g. of this section, the special master, after a hearing, may deny the request or authorize the requested additional sale on terms as the special master determines are fair and reasonable, subject to the following limitations:

(1) A sale authorized under this subsection may occur only after the purchase prices for all interests subject to sale under subsections a. through f. of this section have been paid into the Superior Court Trust Fund and those interests have been reallocated among the cotenants as provided in those subsections. Any funds deposited into the Trust Fund pursuant to this section shall be distributed in accordance with the procedures set forth in the Rules of Court; and

(2) The purchase price for the interest of a non-appearing cotenant is based on the special master's determination of value under section 6 of this act.

8. a. If all the interests of all cotenants that requested partition by sale are not purchased by other cotenants pursuant to section 7 of this act, or if after conclusion of the buyout period under that section, a cotenant remains that has requested partition in kind, the special master shall report to the court recommending partition in kind. The court shall order partition in kind, unless the court, after consideration of the factors listed in section 9 of this act, finds that partition in kind will result in great prejudice to the cotenants as a group. In considering whether to order partition in kind, the court shall approve a request by two or more parties to have their individual interests aggregated.

b. If the court does not order partition in kind under subsection a. of this section, the court shall order partition by sale pursuant to section 10 of this act or, if no cotenant requested partition by sale, the court shall dismiss the action.

c. If the court orders partition in kind pursuant to subsection a. of this section, the court may require that one or more cotenants pay one or more other cotenants amounts so that the payments, taken together with the value of the in-kind distributions to the cotenants, make the partition in kind just and proportionate in value to the fractional interests held.

d. If the court orders partition in kind pursuant to subsection a. of this section, the court shall allocate to the cotenants that are unknown, un-locatable, or the subject of a default judgment, if their interests were not bought out pursuant to section 7 of this act, a part of the property representing the combined interests of these cotenants as determined by the court.

9. a. In determining under subsection a. of section 8 of this act whether partition in kind would result in great prejudice to the cotenants as a group, the court shall consider the following:

(1) Whether the heirs property practicably can be divided among the cotenants;

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

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

(4) A cotenant’s sentimental attachment to the property, including any attachment arising because the property has ancestral or other unique or special value to the cotenant;

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

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

(7) any other relevant factor as determined by the court.

b. The court may not consider any one factor in subsection a. of this section to be dispositive without weighing the totality of all relevant factors and circumstances.

10. a. If the court orders a sale of heirs property, the sale shall be an open-market sale unless the court finds that a sale by sealed bids or an auction would be more economically advantageous and in the best interest of the cotenants as a group.

b. If the court orders an open-market sale and the parties, not later than 10 days after the entry of the order, agree on a real estate broker licensed in this State to offer the property for sale, the court shall appoint the broker and establish a reasonable commission. If the parties do not agree on a broker, the court shall appoint a disinterested real estate broker licensed in this State to offer the property for sale and shall establish a reasonable commission. The broker shall offer the property for sale in a commercially reasonable manner at a price no lower than its determination of value pursuant to section 6 of this act and on the terms and conditions established by the court.

c. If the broker appointed under subsection b. of this section obtains, within a reasonable time, an offer to purchase the property for at least the determination of value:

(1) The broker shall comply with the reporting requirements in section 11 of this act; and

(2) The sale may be completed in accordance with State law other than this act.

d. If the broker appointed under subsection b. of this section does not obtain, within a reasonable time, an offer to purchase the property for at least the determination of value, the court, after hearing, may:

(1) Approve the highest outstanding offer, if any;

(2) Re-determine the value of the property and order that the property continue to be offered for an additional time; or

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

e. If the court orders a sale by sealed bids or an auction, the court shall set terms and conditions of the sale.

f. If a purchaser is entitled to a share of the proceeds of the sale, the purchaser is entitled to a credit against the price in an amount equal to the purchaser's share of the proceeds.

11. a. Unless otherwise required to do so within a shorter time, a broker appointed under subsection b. of section 10 of this act to offer heirs property by open-market sale shall file a report with the court not later than seven days after receiving an offer to purchase the property for at least the value determined under section 6 or 10 of this act.

b. The report required by subsection a. of this section shall contain the following information:

(1) A description of the property to be sold to each buyer;

(2) The name of each buyer;

(3) The proposed purchase price;

(4) The terms and conditions of the proposed sale, including the terms of any owner financing;

(5) The amounts to be paid to lienholders;

(6) A statement of contractual or other arrangements or conditions of the broker's commission; and

(7) Any other material facts relevant to the sale.

12. This act modifies, limits, and supersedes the federal "Electronic Signatures in Global and National Commerce Act," 15 U.S.C. section 7001 et seq., but does not modify, limit, or supersede section 101(c) of that act, 15 U.S.C. section 7001(c), or authorize electronic delivery of any of the notices described in section 103(b) of that act, 15 U.S.C. section 7003(b).

13. This act shall take effect on the 30th day next following enactment, and apply to any partition actions filed on or after that date.

STATEMENT

This bill, titled the "Uniform Partition of Heirs Property Act," would provide an alternative process for handling partition actions filed in court concerning real property with multiple owners, at least one of whom had acquired title to the property from a relative. The bill is based on the 2010 uniform act of the same name drafted and approved by the Uniform Law Commission (formerly known, and sometimes still referred to, as the National Conference of Commissioners on Uniform State Laws).

Currently, any real property held by multiple owners as tenants in common (cotenants) may be subject to a partition action filed in Superior Court, which may result in (1) a partition in kind, which is the physical division of the property proportionate to individual owners' interests, or (2) partition by sale, for which individual owners are then compensated out of the total purchase price proportionate to their interests. <u>See</u> N.J.S.2A:56-1 et seq. This bill would preempt some parts of the existing partition law in order to create new requirements for the process intended to more greatly protect the interests of cotenant property owners who may object to another owner's action seeking to partition any property which meets the following characteristics and is referred to in the bill as "heirs property":

- there is no agreement in a record binding all the cotenants which governs the partition of the property;
- one or more of the cotenants acquired title from a relative, whether living or deceased; and
- any one of the following applies: 20 percent or more of the interests are held by cotenants who are relatives; 20 percent or more of the interests are held by an individual who acquired title from a relative, whether living or deceased; or 20 percent or more of the cotenants are relatives.

When a partition action is filed pursuant to the partition law, N.J.S.2A:56-1 et seq., the court would make a determination, based on information contained in the pleadings or any other information provided to the court pursuant to the Rules of Court, whether the subject property is "heirs property." If so determined, the property would be partitioned in accordance with the process set forth in the bill. The court is to appoint a special master to generally oversee the process and, when appropriate to carry out a partition in kind (the physical division of property), and may, when appropriate, appoint a commissioner or commissioners pursuant R.4:63-1 of the Rules of Court "to ascertain and report in writing the metes and bounds of each [cotenant's] share." Any such appointed commissioner would be required to be disinterested, impartial, and not a party to or participant in the partition action.

The bill also provides that if the court determines that the property may be heirs property, the court would order the plaintiff to post, and maintain while the action is pending, a conspicuous notice on the property that is the subject of the action in accordance with the Rules of Court. That notice would state information about the partition action and the common designation by which the property is known, and the court could also require the party to include the party's name and the known defendants (other cotenants).

An appointed special master would direct a disinterested real estate appraiser licensed in the State to make a determination of the property's fair market value, assuming sole ownership of the fee simple estate, unless the cotenants have agreed to the property's value or to another valuation method, in which case the special master could accept that value or the value produced by the agreed upon method. If an appraisal was conducted, the completed appraisal would be distributed to the parties in the action and filed with the special master. Within 30 days after the appraisal is filed, any party could file an objection with the special master. Thereafter, following notice of a hearing, the special master could conduct an appraisal hearing to determine the fair market value of the property, during which the special master could consider evidence offered by any party in addition to the real estate appraisal on file.

If any cotenant requests a partition by sale, after the determination of the property's value, a notice would be sent within 45 days by the party who filed the partition action to all parties and the special master indicating that any cotenant, except a cotenant that requested partition by sale, could buy all of the interests of the one or more cotenants requesting the sale. Within 30 days thereafter, any eligible cotenant or cotenants could then elect to buy all of those interests by giving notice of such to the parties and the special master. The purchase price for each of the interests of a cotenant requesting the partition by sale would be the determined value of the entire parcel of property multiplied by the cotenant's fractional ownership of the entire parcel.

At the conclusion of the buyout notice period, the bill provides for the following:

(1) If only one cotenant elected to buy all the interests of the cotenants that requested partition by sale, the cotenant would notify all the parties and the special master in writing;

(2) If more than one cotenant elected to buy all the interests of the cotenants that requested partition by sale, the special master would allocate the right to buy those interests among the electing cotenants based on each electing cotenant's existing fractional ownership of the entire parcel divided by the total existing fractional ownership of all cotenants electing to buy, and send written notice to all the parties of that fact and of the price to be paid by each electing cotenant; and

(3) If no cotenant elected to buy all the interests of the cotenants that requested partition by sale, the special master with notice to the parties would report in writing to the court, and the court would resolve the matter by ordering a partition in kind or partition by sale.

In situations when one or more cotenants elected to buy the available interests, each such cotenant would be required to pay their apportioned price within 30 days with notice to the special master. Upon timely payment by all purchasing cotenants, the special master would issue an order reallocating the interests amongst the remaining cotenants and the money held by the Superior Court Trust Fund would be disbursed, in accordance with procedures set forth in the Rules of Court, to the one or more cotenants who have been bought-out. If no one made timely payments, the special master would report this to the court, which in turn would resolve the matter by ordering a partition in kind or partition by sale. If only some made timely payments, those paying cotenants could file a motion with the special master to determine the outstanding interests and their purchase price, and one or more such cotenants could thereafter pay, based upon a new special master order, for the recalculated remaining interests within 30 days following issuance of the order. After this new 30-day period, if there remained any interests for sale that are not purchased, the court would resolve the matter by ordering a partition in kind or partition by sale.

Thus, whenever at the conclusion of the one or more buyout periods described above there remain any unpurchased interest from a cotenant that requested the partition by sale, or any cotenant remains that has requested a partition in kind, the special master would report to the court a recommendation to proceed with a partition in kind. The court would order the partitioning of the property into physically distinct and separately titled parcels, unless the court found that such partitioning would result in great prejudice to the cotenants as a group; the determination of “great prejudice” would be based on such factors as whether the property could be divided practicably amongst cotenants, whether doing so could decrease the aggregate values of the resulting parcels versus selling the property as a whole, and any cotenant’s sentimental attachment to the property, including attachment arising because of any ancestral, unique, or special value to the cotenant. In a case in which a partition in kind would result in great prejudice, the court would order a partition by sale, unless no cotenant requested such action, resulting in the dismissal of the case and no further partitioning of the property.

Any partition by sale would be an open-market sale unless the court finds that a sale by sealed bids or an auction would be more economically advantageous and in the best interest of the cotenants as a group. Any open-market sale would proceed under a licensed real estate broker, either agreed to by the parties or, absent agreement, appointed by the court. The real estate broker would be provided a reasonable commission on the sale as determined by the court.

The broker would offer the property for sale in a commercially reasonable manner at a price no lower than the previously determined value of the property, and on the terms and conditions established by the court. The broker, after receiving an offer to purchase the property, would file a report with the court containing information about the purchase price, name of each buyer, terms of the proposed sale, including the terms of any financing, any amounts to be paid to lienholders, and other material facts relevant to the sale. Thereafter, the purchase could be completed in accordance with applicable State law and payments distributed based upon the former cotenants various interests in the property.

This bill would take effect on the 30th day following enactment, and apply to any partition actions filed on or after that date.

SENATE, No. 1400

STATE OF NEW JERSEY

221st LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2024 SESSION

Sponsored by:
Senator TROY SINGLETON
District 7 (Burlington)
Senator ANDREW ZWICKER
District 16 (Hunterdon, Mercer, Middlesex and Somerset)
Assemblywoman ELLEN J. PARK
District 37 (Bergen)
Assemblyman ROY FREIMAN
District 16 (Hunterdon, Mercer, Middlesex and Somerset)

Co-Sponsored by:
Assemblywoman Drulis

SYNOPSIS

"Uniform Partition of Heirs Property Act"; provides alternative process for handling partition actions filed in court concerning real property with multiple owners, at least one of whom had acquired title from relative.

CURRENT VERSION OF TEXT

As reported by the Senate Judiciary Committee with technical review.

(Sponsorship Updated As Of: 5/22/2025)

AN ACT concerning partition actions involving certain real property and supplementing chapter 56 of Title 2A of the New Jersey Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. This act shall be known and may be cited as the "Uniform Partition of Heirs Property Act."

2. As used in this act:

"Ascendant" means an individual who precedes another individual in lineage, in the direct line of ascent from the other individual.

"Collateral" means an individual who is related to another individual under the law of intestate succession of this State but who is not the other individual's ascendant or descendant.

"Descendant" means an individual who follows another individual in lineage, in the direct line of descent from the other individual.

"Determination of value" means a court order determining the fair market value of heirs property under section 6 or 10 of this act or adopting the valuation of the property agreed to by all cotenants.

"Heirs property" means real property held in tenancy in common which satisfies all of the following requirements as of the filing of a partition action: (1) there is no agreement in a record binding all the cotenants which governs the partition of the property; (2) one or more of the cotenants acquired title from a relative, whether living or deceased; and (3) any of the following applies: (a) 20 percent or more of the interests are held by cotenants who are relatives; (b) 20 percent or more of the interests are held by an individual who acquired title from a relative, whether living or deceased; or (c) 20 percent or more of the cotenants are relatives.

"Partition by sale" means a court-ordered sale of the entire heirs property, whether by auction, sealed bids, or open-market sale conducted under section 10 of this act.

"Partition in kind" means the division of heirs property into physically distinct and separately titled parcels.

"Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

"Relative" means an ascendant, descendant, or collateral or an individual otherwise related to another individual by blood, marriage, adoption, or law of this State other than this act.

3. a. In an action to partition real property under N.J.S.2A:56-1 et seq., the court shall determine whether the property is heirs property. In making this determination, the court shall rely on information contained in the pleadings, or any other information provided to the court pursuant to the Rules of Court. If the court

determines that the property is heirs property, pursuant to the Rules of Court, the court shall appoint a special master and may, when appropriate, appoint a commissioner or commissioners to partition the property under the partition process set forth in this act unless all of the cotenants otherwise agree in writing.

b. This act is a supplement to N.J.S.2A:56-1 et seq. and if a partition action is governed by this act, it preempts the provisions of N.J.S.2A:56-1 et seq. that are inconsistent with this act.

4. If the plaintiff in a partition action seeks an order of notice by publication and the court determines that the property may be heirs property, the court shall order the plaintiff to post and maintain while the action is pending a conspicuous notice on the property that is the subject of the action in accordance with the Rules of Court. The notice shall state that a partition action has commenced and identify the name and address of the court and the common designation by which the property is known. The court may require the plaintiff to publish on the notice the name of the plaintiff and the known defendants.

5. If the court appoints a commissioner or commissioners pursuant to N.J.S.2A:56-1 et seq. and the Rules of Court, each commissioner shall be disinterested, impartial, and not a party to or a participant in the partition action.

6. a. (1) Except as otherwise provided in subsection b. of this section, if the court determines that the property involved in a partition action is heirs property, the special master shall direct a determination of the property's fair market value, assuming sole ownership of the fee simple estate, be made by a disinterested real estate appraiser licensed in this State. On completion of the appraisal, the appraiser shall distribute the appraisal to the parties and file a sworn or verified appraisal with the special master.

(2) Within 30 days after an appraisal is filed, the parties may file objections with the special master.

(3) Following notice in accordance with the Rules of Court, the special master may conduct an appraisal hearing to determine the fair market value of the property. In addition to the appraisal, the special master may consider any other evidence offered by a party.

b. If all cotenants have agreed to the value of the property or to another method of valuation, the special master may accept that value or the value produced by the agreed method of valuation.

7. a. If any cotenant requests partition by sale, after the determination of value under section 6 of this act, the party filing the partition action shall send written notice to the parties and the special master within 30 days that any cotenant, except a cotenant

that requested partition by sale, may buy all of the interests of the cotenants that requested partition by sale.

b. Not later than 45 days after the written notice is sent under subsection a. of this section, any cotenant except a cotenant that requested partition by sale may give written notice to the parties and the special master that it elects to buy all of the interests of the cotenants that requested partition by sale.

c. The purchase price for each of the interests of a cotenant that requested partition by sale is the value of the entire parcel determined under section 6 of this act multiplied by the cotenant's fractional ownership of the entire parcel.

d. After expiration of the buyout notice period set in subsection b. of this section, the following shall apply:

(1) If only one cotenant elects to buy all the interests of the cotenants that requested partition by sale, the cotenant shall notify all the parties and the special master in writing of that fact.

(2) If more than one cotenant elects to buy all the interests of the cotenants that requested partition by sale, the special master shall allocate the right to buy those interests among the electing cotenants based on each electing cotenant's existing fractional ownership of the entire parcel divided by the total existing fractional ownership of all cotenants electing to buy, and send written notice to all the parties of that fact and of the price to be paid by each electing cotenant.

(3) If no cotenant elects to buy all the interests of the cotenants that requested partition by sale, the special master with notice to the parties shall report in writing to the court. The court shall resolve the partition action, by order, in accordance with subsections a. and b. of section 8 of this act.

e. If the parties under paragraph (1) or (2) of subsection d. of this section elect to buy all the interests, the cotenants shall be required to pay their apportioned price within 60 days to the Superior Court Trust Fund, in accordance with the procedures set forth in the Rules of Court. After this date, the following shall apply:

(1) If all electing cotenants timely pay their apportioned price, the special master shall issue an order reallocating all the interests of the cotenants and authorizing the disbursement of the amounts held by the Superior Court Trust Fund, in accordance with the procedures set forth in the Rules of Court, to the persons entitled to them.

(2) If no electing cotenant timely pays its apportioned price, the special master shall report to the court in writing with written notice to the parties. The court shall resolve the partition action, by order, under subsections a. and b. of section 8 of this act as if the interests of the cotenants that requested partition by sale were not purchased.

(3) If one or more but not all of the electing cotenants fail to pay their apportioned price on time, the electing cotenants that paid

their apportioned price of the interest may file a motion with the special master to determine the remaining interests and prices.

f. Within 45 days following any order of the special master entered pursuant to paragraph (3) of subsection e. of this section, any cotenant that paid may elect to purchase all of the remaining interest by paying the entire price with notice to the special master. After this date, the following shall apply:

(1) If only one cotenant pays the entire price for the remaining interests, the special master shall issue an order reallocating the remaining interest to that cotenant and requiring refund of any excess payments.

(2) If no cotenant pays the entire price for the remaining interests, the special master shall report to the court in writing with written notice to the parties. The court shall resolve the partition action under subsection a. and b. of section 8 of this act as if the interests of the cotenants that requested partition by sale were not purchased.

(3) If more than one cotenant pays the entire price for the remaining interests, the special master shall reapportion the remaining interests among those paying cotenants, based on each paying cotenant's original fractional ownership of the entire parcel divided by the total original fractional ownership of all cotenants that paid the entire price for the remaining interests. The special master shall report to the court in writing with written notice to the parties. The court shall issue an order reallocating all of the cotenants' interests and requiring refund of any excess payments.

g. Not later than 30 days after notices have been sent pursuant to subsection a. of this section, any cotenant entitled to buy an interest under this section may request the special master to authorize the sale as part of the pending action of the interests of cotenants named as defendants and served with the complaint but that did not appear in the action.

h. If the special master receives a timely request under subsection g. of this section, the special master, after a hearing, may deny the request or authorize the requested additional sale on terms as the special master determines are fair and reasonable, subject to the following limitations:

(1) A sale authorized under this subsection may occur only after the purchase prices for all interests subject to sale under subsections a. through f. of this section have been paid into the Superior Court Trust Fund and those interests have been reallocated among the cotenants as provided in those subsections. Any funds deposited into the Trust Fund pursuant to this section shall be distributed in accordance with the procedures set forth in the Rules of Court; and

(2) The purchase price for the interest of a non-appearing cotenant is based on the special master's determination of value under section 6 of this act.

8. a. If all the interests of all cotenants that requested partition by sale are not purchased by other cotenants pursuant to section 7 of this act, or if after conclusion of the buyout period under that section, a cotenant remains that has requested partition in kind, the special master shall report to the court recommending partition in kind. The court shall order partition in kind, unless the court, after consideration of the factors listed in section 9 of this act, finds that partition in kind will result in great prejudice to the cotenants as a group. In considering whether to order partition in kind, the court shall approve a request by two or more parties to have their individual interests aggregated.

b. If the court does not order partition in kind under subsection a. of this section, the court shall order partition by sale pursuant to section 10 of this act or, if no cotenant requested partition by sale, the court shall dismiss the action.

c. If the court orders partition in kind pursuant to subsection a. of this section, the court may require that one or more cotenants pay one or more other cotenants amounts so that the payments, taken together with the value of the in-kind distributions to the cotenants, make the partition in kind just and proportionate in value to the fractional interests held.

d. If the court orders partition in kind pursuant to subsection a. of this section, the court shall allocate to the cotenants that are unknown, un-locatable, or the subject of a default judgment, if their interests were not bought out pursuant to section 7 of this act, a part of the property representing the combined interests of these cotenants as determined by the court.

9. a. In determining under subsection a. of section 8 of this act whether partition in kind would result in great prejudice to the cotenants as a group, the court shall consider the following:

(1) Whether the heirs property practicably can be divided among the cotenants;

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

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

(4) A cotenant’s sentimental attachment to the property, including any attachment arising because the property has ancestral or other unique or special value to the cotenant;

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

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

(7) any other relevant factor as determined by the court.

b. The court may not consider any one factor in subsection a. of this section to be dispositive without weighing the totality of all relevant factors and circumstances.

10. a. If the court orders a sale of heirs property, the sale shall be an open-market sale unless the court finds that a sale by sealed bids or an auction would be more economically advantageous and in the best interest of the cotenants as a group.

b. If the court orders an open-market sale and the parties, not later than 10 days after the entry of the order, agree on a real estate broker licensed in this State to offer the property for sale, the court shall appoint the broker and establish a reasonable commission. If the parties do not agree on a broker, the court shall appoint a disinterested real estate broker licensed in this State to offer the property for sale and shall establish a reasonable commission. The broker shall offer the property for sale in a commercially reasonable manner at a price no lower than its determination of value pursuant to section 6 of this act and on the terms and conditions established by the court.

c. If the broker appointed under subsection b. of this section obtains, within a reasonable time, an offer to purchase the property for at least the determination of value:

(1) The broker shall comply with the reporting requirements in section 11 of this act; and

(2) The sale may be completed in accordance with State law other than this act.

d. If the broker appointed under subsection b. of this section does not obtain, within a reasonable time, an offer to purchase the property for at least the determination of value, the court, after hearing, may:

(1) Approve the highest outstanding offer, if any;

(2) Re-determine the value of the property and order that the property continue to be offered for an additional time; or

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

e. If the court orders a sale by sealed bids or an auction, the court shall set terms and conditions of the sale.

f. If a purchaser is entitled to a share of the proceeds of the sale, the purchaser is entitled to a credit against the price in an amount equal to the purchaser's share of the proceeds.

11. a. Unless otherwise required to do so within a shorter time, a broker appointed under subsection b. of section 10 of this act to offer heirs property by open-market sale shall file a report with the court not later than seven days after receiving an offer to purchase the property for at least the value determined under section 6 or 10 of this act.

b. The report required by subsection a. of this section shall contain the following information:

(1) A description of the property to be sold to each buyer;

(2) The name of each buyer;

(3) The proposed purchase price;

(4) The terms and conditions of the proposed sale, including the terms of any owner financing;

(5) The amounts to be paid to lienholders;

(6) A statement of contractual or other arrangements or conditions of the broker's commission; and

(7) Any other material facts relevant to the sale.

12. This act modifies, limits, and supersedes the federal "Electronic Signatures in Global and National Commerce Act," 15 U.S.C. section 7001 et seq., but does not modify, limit, or supersede section 101(c) of that act, 15 U.S.C. section 7001(c), or authorize electronic delivery of any of the notices described in section 103(b) of that act, 15 U.S.C. section 7003(b).

13. This act shall take effect on the 30th day next following enactment, and apply to any partition actions filed on or after that date.

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

SENATE, No. 1400

STATE OF NEW JERSEY

DATED: MAY 8, 2025

The Assembly Judiciary Committee reports favorably Senate Bill No. 1400.

This bill, titled the "Uniform Partition of Heirs Property Act," would provide an alternative process for handling partition actions filed in court concerning real property with multiple owners, at least one of whom had acquired title to the property from a relative. The bill is based on the 2010 uniform act drafted and approved by the Uniform Law Commission.

<u>Current Law and Bill Intent</u>

Currently, any real property held by multiple owners as tenants in common (cotenants) may be subject to a partition action filed in Superior Court, which may result in (1) a partition in kind, which is the physical division of the property proportionate to individual owners' interests, or (2) partition by sale, for which individual owners are compensated out of the total purchase price proportionate to their interests. *See* N.J.S.2A:56-1 et seq.

This bill would preempt parts of the existing partition law in order to create new requirements for the partition process. The intent is to provide greater protections for the interests of cotenant property owners who may object to another owner's action seeking to partition "heirs property."

<u>Eligible Property</u>

The bill would apply to "heirs property," which is defined under the bill as any property held by coteneants that meets the following characteristics:

- there is no agreement in a record binding all the cotenants which governs the partition of the property;

- one or more of the cotenants acquired title from a relative, whether living or deceased; and

- any one of the following applies: 20 percent or more of the interests are held by cotenants who are relatives; 20 percent or more of the interests are held by an individual who acquired title from a relative, whether living or deceased; or 20 percent or more of the cotenants are relatives.

Appointment of Special Master or Commissioner

When a partition action is filed, the court would make a determination, based on information contained in the pleadings or any other information provided to the court pursuant to the Rules of Court, whether the subject property is "heirs property." If so determined, the court would appoint a special master to generally oversee the process and may, when appropriate, appoint a commissioner or commissioners. Any such appointed commissioner would be required to be disinterested, impartial, and not a party to or participant in the partition action.

Posting of Notice

The bill also provides that if the court determines that the property may be heirs property, the court would order the plaintiff to post, and maintain while the action is pending, a conspicuous notice on the property that is the subject of the action in accordance with the Rules of Court. That notice would state information about the partition action and the common designation by which the property is known, and the court could also require the party to include the party's name and the known defendants (other cotenants).

Valuation of the Property

An appointed special master would direct a disinterested real estate appraiser licensed in the State to make a determination of the property's fair market value, assuming sole ownership of the fee simple estate. If the cotenants have agreed to the property's value or to another valuation method, the special master could accept that value or the value produced by the agreed upon method. If an appraisal is conducted, the completed appraisal would be distributed to the parties in the action and filed with the special master. Within 30 days after the appraisal is filed, any party could file an objection with the special master. Thereafter, following notice of a hearing, the special master could conduct an appraisal hearing to determine the fair market value of the property, during which the special master could consider evidence offered by any party in addition to the real estate appraisal on file.

Buyout Period Notice

If any cotenant requests a partition by sale after the determination of the property's value, a notice would be sent within 45 days by the party who filed the partition action to all parties and the special master indicating that any cotenant, except a cotenant that requested partition by sale, could buy all of the interests of the one or more cotenants requesting the sale. Within 30 days thereafter, any eligible cotenant or cotenants could then elect to buy all of those interests by giving notice of such to the parties and the special master. The purchase price for each of the interests of a cotenant requesting the partition by sale would be the determined value of the entire parcel of property multiplied by the cotenant's fractional ownership of the entire parcel.

At the conclusion of the buyout notice period, the bill provides for the following:

(1) If only one cotenant elected to buy all the interests of the cotenants that requested partition by sale, the cotenant would notify all the parties and the special master in writing;

(2) If more than one cotenant elected to buy all the interests of the cotenants that requested partition by sale, the special master would allocate the right to buy those interests among the electing cotenants based on each electing cotenant's existing fractional ownership of the entire parcel divided by the total existing fractional ownership of all cotenants electing to buy, and send written notice to all the parties of that fact and of the price to be paid by each electing cotenant; and

(3) If no cotenant elected to buy all the interests of the cotenants that requested partition by sale, the special master with notice to the parties would report in writing to the court, and the court would resolve the matter by ordering a partition in kind or partition by sale.

In situations when one or more cotenants elected to buy the available interests, each such cotenant would be required to pay their apportioned price within 30 days with notice to the special master.

Payment and Reallocation of Interests

Upon timely payment by all purchasing cotenants, who deposit their money in the Superior Court Trust Fund, the special master would issue an order reallocating the interests amongst the remaining cotenants and the money held by the trust fund would be disbursed, in accordance with procedures set forth in the Rules of Court, to the one or more cotenants who have been bought out.

If no one made timely payments, the special master would report this to the court, which in turn would resolve the matter by ordering a partition in kind or partition by sale. If only some made timely payments, those paying cotenants could file a motion with the special master to determine the outstanding interests and their purchase price, and one or more such cotenants could thereafter pay, based upon a new special master order, for the recalculated remaining interests within 30 days following issuance of the order. After this new 30-day period, if there remained any interests for sale that are not purchased, the court would resolve the matter by ordering a partition in kind or partition by sale.

Conditions for Partitions in Kind

Whenever at the conclusion of the one or more buyout periods described above there remain any unpurchased interest from a cotenant that requested the partition by sale, or any cotenant remains that has requested a partition in kind, the special master would report to the court a recommendation to proceed with a partition in kind. The court would order the partitioning of the property into physically distinct and separately titled parcels, unless the court found that such partitioning would result in great prejudice to the cotenants as a group; the determination of "great prejudice" would be based on such factors as whether the property could be divided practicably amongst cotenants, whether doing so could decrease the aggregate values of the resulting parcels versus selling the property as a whole, and any cotenant's sentimental attachment to the property, including attachment arising because of any ancestral, unique, or special value to the cotenant. In a case in which a partition in kind would result in great prejudice, the court would order a partition by sale, unless no cotenant requested such action, resulting in the dismissal of the case and no further partitioning of the property.

<u>Conditions for Partition by Sale</u>

Any partition by sale would be an open-market sale unless the court finds that a sale by sealed bids or an auction would be more economically advantageous and in the best interest of the cotenants as a group. Any open-market sale would proceed under a licensed real estate broker, either agreed to by the parties or, absent agreement, appointed by the court. The real estate broker would be provided a reasonable commission on the sale as determined by the court.

The broker would offer the property for sale in a commercially reasonable manner at a price no lower than the previously determined value of the property, and on the terms and conditions established by the court. The broker, after receiving an offer to purchase the property, would file a report with the court containing information about the purchase price, name of each buyer, terms of the proposed sale, including the terms of any financing, any amounts to be paid to lienholders, and other material facts relevant to the sale. Thereafter, the purchase could be completed in accordance with applicable State law and payments distributed based upon the former cotenants' various interests in the property.

<u>Effective Date</u>

This bill would take effect on the 30th day following enactment, and apply to any partition actions filed on or after that date.

As reported by the committee, Senate Bill No. 1400 is identical to Assembly Bill No. 5448, which was also reported by the committee on this date.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

SENATE, No. 1400

STATE OF NEW JERSEY

DATED: JUNE 28, 2024

The Senate Judiciary Committee reports favorably Senate Bill No. 1400.

This bill, titled the "Uniform Partition of Heirs Property Act," would provide an alternative process for handling partition actions filed in court concerning real property with multiple owners, at least one of whom had acquired title to the property from a relative. The bill is based on the 2010 uniform act of the same name drafted and approved by the Uniform Law Commission (formerly known, and sometimes still referred to, as the National Conference of Commissioners on Uniform State Laws).

Currently, any real property held by multiple owners as tenants in common (cotenants) may be subject to a partition action filed in Superior Court, which may result in (1) a partition in kind, which is the physical division of the property proportionate to individual owners' interests, or (2) partition by sale, for which individual owners are then compensated out of the total purchase price proportionate to their interests. See N.J.S.2A:56-1 et seq. This bill would preempt some parts of the existing partition law in order to create new requirements for the process intended to more greatly protect the interests of cotenant property owners who may object to another owner's action seeking to partition any property which meets the following characteristics and is referred to in the bill as "heirs property":

- there is no agreement in a record binding all the cotenants which governs the partition of the property;
- one or more of the cotenants acquired title from a relative, whether living or deceased; and
- any one of the following applies: 20 percent or more of the interests are held by cotenants who are relatives; 20 percent or more of the interests are held by an individual who acquired title from a relative, whether living or deceased; or 20 percent or more of the cotenants are relatives.

When a partition action is filed pursuant to the partition law, N.J.S.2A:56-1 et seq., the court would make a determination, based on information contained in the pleadings or any other information provided to the court pursuant to the Rules of Court, whether the subject property is "heirs property." If so determined, the property would be partitioned in accordance with the process set forth in the bill. The court would appoint a special master to generally oversee the process and, when appropriate to carry out a partition in kind (the physical division of property), appoint a commissioner or commissioners pursuant R.4:63-1 of the Rules of Court "to ascertain and report in writing the metes and bounds of each [cotenant's] share." Any such appointed commissioner would be required to be disinterested, impartial, and not a party to or participant in the partition action.

The bill also provides that if the court determines that the property may be heirs property, the court would order the plaintiff to post, and maintain while the action is pending, a conspicuous notice on the property that is the subject of the action in accordance with the Rules of Court. That notice would state information about the partition action and the common designation by which the property is known, and the court could also require the party to include the party's name and the known defendants (other cotenants).

An appointed special master would direct a disinterested real estate appraiser licensed in the State to make a determination of the property's fair market value, assuming sole ownership of the fee simple estate, unless the cotenants have agreed to the property's value or to another valuation method, in which case the special master could accept that value or the value produced by the agreed upon method. If an appraisal was conducted, the completed appraisal would be distributed to the parties in the action and filed with the special master. Within 30 days after the appraisal is filed, any party could file an objection with the special master. Thereafter, following notice of a hearing, the special master could conduct an appraisal hearing to determine the fair market value of the property, during which the special master could consider evidence offered by any party in addition to the real estate appraisal on file.

If any cotenant requests a partition by sale after the determination of the property's value, a notice would be sent within 45 days by the party who filed the partition action to all parties and the special master indicating that any cotenant, except a cotenant that requested partition by sale, could buy all of the interests of the one or more cotenants requesting the sale. Within 30 days thereafter, any eligible cotenant or cotenants could then elect to buy all of those interests by giving notice of such to the parties and the special master. The purchase price for each of the interests of a cotenant requesting the partition by sale would be the determined value of the entire parcel of property multiplied by the cotenant's fractional ownership of the entire parcel.

At the conclusion of the buyout notice period, the bill provides for the following:

(1) If only one cotenant elected to buy all the interests of the cotenants that requested partition by sale, the cotenant would notify all the parties and the special master in writing;

(2) If more than one cotenant elected to buy all the interests of the cotenants that requested partition by sale, the special master would allocate the right to buy those interests among the electing cotenants based on each electing cotenant’s existing fractional ownership of the entire parcel divided by the total existing fractional ownership of all cotenants electing to buy, and send written notice to all the parties of that fact and of the price to be paid by each electing cotenant; and

(3) If no cotenant elected to buy all the interests of the cotenants that requested partition by sale, the special master with notice to the parties would report in writing to the court, and the court would resolve the matter by ordering a partition in kind or partition by sale.

In situations when one or more cotenants elected to buy the available interests, each such cotenant would be required to pay their apportioned price within 30 days with notice to the special master. Upon timely payment by all purchasing cotenants, who would deposit their money in the Superior Court Trust Fund, the special master would issue an order reallocating the interests amongst the remaining cotenants and the money held by the trust fund would be disbursed, in accordance with procedures set forth in the Rules of Court, to the one or more cotenants who have been bought out. If no one made timely payments, the special master would report this to the court, which in turn would resolve the matter by ordering a partition in kind or partition by sale. If only some made timely payments, those paying cotenants could file a motion with the special master to determine the outstanding interests and their purchase price, and one or more such cotenants could thereafter pay, based upon a new special master order, for the recalculated remaining interests within 30 days following issuance of the order. After this new 30-day period, if there remained any interests for sale that are not purchased, the court would resolve the matter by ordering a partition in kind or partition by sale.

Whenever at the conclusion of the one or more buyout periods described above there remain any unpurchased interest from a cotenant that requested the partition by sale, or any cotenant remains that has requested a partition in kind, the special master would report to the court a recommendation to proceed with a partition in kind. The court would order the partitioning of the property into physically distinct and separately titled parcels, unless the court found that such partitioning would result in great prejudice to the cotenants as a group; the determination of “great prejudice” would be based on such factors as whether the property could be divided practicably amongst cotenants, whether doing so could decrease the aggregate values of the resulting parcels versus selling the property as a whole, and any cotenant’s sentimental attachment to the property, including attachment arising because of any ancestral, unique, or special value to the cotenant. In a case in which a partition in kind would result in great prejudice, the court would order a partition by sale, unless no cotenant requested such action, resulting in the dismissal of the case and no further partitioning of the property.

Any partition by sale would be an open-market sale unless the court finds that a sale by sealed bids or an auction would be more economically advantageous and in the best interest of the cotenants as a group. Any open-market sale would proceed under a licensed real estate broker, either agreed to by the parties or, absent agreement, appointed by the court. The real estate broker would be provided a reasonable commission on the sale as determined by the court.

The broker would offer the property for sale in a commercially reasonable manner at a price no lower than the previously determined value of the property, and on the terms and conditions established by the court. The broker, after receiving an offer to purchase the property, would file a report with the court containing information about the purchase price, name of each buyer, terms of the proposed sale, including the terms of any financing, any amounts to be paid to lienholders, and other material facts relevant to the sale. Thereafter, the purchase could be completed in accordance with applicable State law and payments distributed based upon the former cotenants various interests in the property.

This bill would take effect on the 30th day following enactment, and apply to any partition actions filed on or after that date.

This bill was prefiled for introduction in the 2024-2025 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

ASSEMBLY, No. 5448

STATE OF NEW JERSEY

221st LEGISLATURE

INTRODUCED MARCH 17, 2025

Sponsored by:
Assemblywoman ELLEN J. PARK
District 37 (Bergen)
Assemblyman ROY FREIMAN
District 16 (Hunterdon, Mercer, Middlesex and Somerset)

Co-Sponsored by:
Assemblywoman Drulis

SYNOPSIS

"Uniform Partition of Heirs Property Act"; provides alternative process for handling partition actions filed in court concerning real property with multiple owners, at least one of whom had acquired title from relative.

CURRENT VERSION OF TEXT

As introduced.

(Sponsorship Updated As Of: 5/22/2025)

AN ACT concerning partition actions involving certain real property and supplementing chapter 56 of Title 2A of the New Jersey Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. This act shall be known and may be cited as the "Uniform Partition of Heirs Property Act."

2. As used in this act:

"Ascendant" means an individual who precedes another individual in lineage, in the direct line of ascent from the other individual.

"Collateral" means an individual who is related to another individual under the law of intestate succession of this State but who is not the other individual's ascendant or descendant.

"Descendant" means an individual who follows another individual in lineage, in the direct line of descent from the other individual.

"Determination of value" means a court order determining the fair market value of heirs property under section 6 or 10 of this act or adopting the valuation of the property agreed to by all cotenants.

"Heirs property" means real property held in tenancy in common which satisfies all of the following requirements as of the filing of a partition action: (1) there is no agreement in a record binding all the cotenants which governs the partition of the property; (2) one or more of the cotenants acquired title from a relative, whether living or deceased; and (3) any of the following applies: (a) 20 percent or more of the interests are held by cotenants who are relatives; (b) 20 percent or more of the interests are held by an individual who acquired title from a relative, whether living or deceased; or (c) 20 percent or more of the cotenants are relatives.

"Partition by sale" means a court-ordered sale of the entire heirs property, whether by auction, sealed bids, or open-market sale conducted under section 10 of this act.

"Partition in kind" means the division of heirs property into physically distinct and separately titled parcels.

"Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

"Relative" means an ascendant, descendant, or collateral or an individual otherwise related to another individual by blood, marriage, adoption, or law of this State other than this act.

3. a. In an action to partition real property under N.J.S.2A:56-1 et seq., the court shall determine whether the property is heirs property. In making this determination, the court shall rely on information contained in the pleadings, or any other information provided to the court pursuant to the Rules of Court. If the court

determines that the property is heirs property, pursuant to the Rules of Court, the court shall appoint a special master and may, when appropriate, appoint a commissioner or commissioners to partition the property under the partition process set forth in this act unless all of the cotenants otherwise agree in writing.

b. This act is a supplement to N.J.S.2A:56-1 et seq. and if a partition action is governed by this act, it preempts the provisions of N.J.S.2A:56-1 et seq. that are inconsistent with this act.

4. If the plaintiff in a partition action seeks an order of notice by publication and the court determines that the property may be heirs property, the court shall order the plaintiff to post and maintain while the action is pending a conspicuous notice on the property that is the subject of the action in accordance with the Rules of Court. The notice shall state that a partition action has commenced and identify the name and address of the court and the common designation by which the property is known. The court may require the plaintiff to publish on the notice the name of the plaintiff and the known defendants.

5. If the court appoints a commissioner or commissioners pursuant to N.J.S.2A:56-1 et seq. and the Rules of Court, each commissioner shall be disinterested, impartial, and not a party to or a participant in the partition action.

6. a. (1) Except as otherwise provided in subsection b. of this section, if the court determines that the property involved in a partition action is heirs property, the special master shall direct a determination of the property's fair market value, assuming sole ownership of the fee simple estate, be made by a disinterested real estate appraiser licensed in this State. On completion of the appraisal, the appraiser shall distribute the appraisal to the parties and file a sworn or verified appraisal with the special master.

(2) Within 30 days after an appraisal is filed, the parties may file objections with the special master.

(3) Following notice in accordance with the Rules of Court, the special master may conduct an appraisal hearing to determine the fair market value of the property. In addition to the appraisal, the special master may consider any other evidence offered by a party.

b. If all cotenants have agreed to the value of the property or to another method of valuation, the special master may accept that value or the value produced by the agreed method of valuation.

7. a. If any cotenant requests partition by sale, after the determination of value under section 6 of this act, the party filing the partition action shall send written notice to the parties and the special master within 30 days that any cotenant, except a cotenant

that requested partition by sale, may buy all of the interests of the cotenants that requested partition by sale.

b. Not later than 45 days after the written notice is sent under subsection a. of this section, any cotenant except a cotenant that requested partition by sale may give written notice to the parties and the special master that it elects to buy all of the interests of the cotenants that requested partition by sale.

c. The purchase price for each of the interests of a cotenant that requested partition by sale is the value of the entire parcel determined under section 6 of this act multiplied by the cotenant's fractional ownership of the entire parcel.

d. After expiration of the buyout notice period set in subsection b. of this section, the following shall apply:

(1) If only one cotenant elects to buy all the interests of the cotenants that requested partition by sale, the cotenant shall notify all the parties and the special master in writing of that fact.

(2) If more than one cotenant elects to buy all the interests of the cotenants that requested partition by sale, the special master shall allocate the right to buy those interests among the electing cotenants based on each electing cotenant's existing fractional ownership of the entire parcel divided by the total existing fractional ownership of all cotenants electing to buy, and send written notice to all the parties of that fact and of the price to be paid by each electing cotenant.

(3) If no cotenant elects to buy all the interests of the cotenants that requested partition by sale, the special master with notice to the parties shall report in writing to the court. The court shall resolve the partition action, by order, in accordance with subsections a. and b. of section 8 of this act.

e. If the parties under paragraph (1) or (2) of subsection d. of this section elect to buy all the interests, the cotenants shall be required to pay their apportioned price within 60 days to the Superior Court Trust Fund, in accordance with the procedures set forth in the Rules of Court. After this date, the following shall apply:

(1) If all electing cotenants timely pay their apportioned price, the special master shall issue an order reallocating all the interests of the cotenants and authorizing the disbursement of the amounts held by the Superior Court Trust Fund, in accordance with the procedures set forth in the Rules of Court, to the persons entitled to them.

(2) If no electing cotenant timely pays its apportioned price, the special master shall report to the court in writing with written notice to the parties. The court shall resolve the partition action, by order, under subsections a. and b. of section 8 of this act as if the interests of the cotenants that requested partition by sale were not purchased.

(3) If one or more but not all of the electing cotenants fail to pay their apportioned price on time, the electing cotenants that paid

their apportioned price of the interest may file a motion with the special master to determine the remaining interests and prices.

f. Within 45 days following any order of the special master entered pursuant to paragraph (3) of subsection e. of this section, any cotenant that paid may elect to purchase all of the remaining interest by paying the entire price with notice to the special master. After this date, the following shall apply:

(1) If only one cotenant pays the entire price for the remaining interests, the special master shall issue an order reallocating the remaining interest to that cotenant and requiring refund of any excess payments.

(2) If no cotenant pays the entire price for the remaining interests, the special master shall report to the court in writing with written notice to the parties. The court shall resolve the partition action under subsection a. and b. of section 8 of this act as if the interests of the cotenants that requested partition by sale were not purchased.

(3) If more than one cotenant pays the entire price for the remaining interests, the special master shall reapportion the remaining interests among those paying cotenants, based on each paying cotenant's original fractional ownership of the entire parcel divided by the total original fractional ownership of all cotenants that paid the entire price for the remaining interests. The special master shall report to the court in writing with written notice to the parties. The court shall issue an order reallocating all of the cotenants' interests and requiring refund of any excess payments.

g. Not later than 30 days after notices have been sent pursuant to subsection a. of this section, any cotenant entitled to buy an interest under this section may request the special master to authorize the sale as part of the pending action of the interests of cotenants named as defendants and served with the complaint but that did not appear in the action.

h. If the special master receives a timely request under subsection g. of this section, the special master, after a hearing, may deny the request or authorize the requested additional sale on terms as the special master determines are fair and reasonable, subject to the following limitations:

(1) A sale authorized under this subsection may occur only after the purchase prices for all interests subject to sale under subsections a. through f. of this section have been paid into the Superior Court Trust Fund and those interests have been reallocated among the cotenants as provided in those subsections. Any funds deposited into the Trust Fund pursuant to this section shall be distributed in accordance with the procedures set forth in the Rules of Court; and

(2) The purchase price for the interest of a non-appearing cotenant is based on the special master's determination of value under section 6 of this act.

8. a. If all the interests of all cotenants that requested partition by sale are not purchased by other cotenants pursuant to section 7 of this act, or if after conclusion of the buyout period under that section, a cotenant remains that has requested partition in kind, the special master shall report to the court recommending partition in kind. The court shall order partition in kind, unless the court, after consideration of the factors listed in section 9 of this act, finds that partition in kind will result in great prejudice to the cotenants as a group. In considering whether to order partition in kind, the court shall approve a request by two or more parties to have their individual interests aggregated.

b. If the court does not order partition in kind under subsection a. of this section, the court shall order partition by sale pursuant to section 10 of this act or, if no cotenant requested partition by sale, the court shall dismiss the action.

c. If the court orders partition in kind pursuant to subsection a. of this section, the court may require that one or more cotenants pay one or more other cotenants amounts so that the payments, taken together with the value of the in-kind distributions to the cotenants, make the partition in kind just and proportionate in value to the fractional interests held.

d. If the court orders partition in kind pursuant to subsection a. of this section, the court shall allocate to the cotenants that are unknown, un-locatable, or the subject of a default judgment, if their interests were not bought out pursuant to section 7 of this act, a part of the property representing the combined interests of these cotenants as determined by the court.

9. a. In determining under subsection a. of section 8 of this act whether partition in kind would result in great prejudice to the cotenants as a group, the court shall consider the following:

(1) Whether the heirs property practicably can be divided among the cotenants;

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

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

(4) A cotenant’s sentimental attachment to the property, including any attachment arising because the property has ancestral or other unique or special value to the cotenant;

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

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

(7) any other relevant factor as determined by the court.

b. The court may not consider any one factor in subsection a. of this section to be dispositive without weighing the totality of all relevant factors and circumstances.

10. a. If the court orders a sale of heirs property, the sale shall be an open-market sale unless the court finds that a sale by sealed bids or an auction would be more economically advantageous and in the best interest of the cotenants as a group.

b. If the court orders an open-market sale and the parties, not later than 10 days after the entry of the order, agree on a real estate broker licensed in this State to offer the property for sale, the court shall appoint the broker and establish a reasonable commission. If the parties do not agree on a broker, the court shall appoint a disinterested real estate broker licensed in this State to offer the property for sale and shall establish a reasonable commission. The broker shall offer the property for sale in a commercially reasonable manner at a price no lower than its determination of value pursuant to section 6 of this act and on the terms and conditions established by the court.

c. If the broker appointed under subsection b. of this section obtains, within a reasonable time, an offer to purchase the property for at least the determination of value:

(1) The broker shall comply with the reporting requirements in section 11 of this act; and

(2) The sale may be completed in accordance with State law other than this act.

d. If the broker appointed under subsection b. of this section does not obtain, within a reasonable time, an offer to purchase the property for at least the determination of value, the court, after hearing, may:

(1) Approve the highest outstanding offer, if any;

(2) Re-determine the value of the property and order that the property continue to be offered for an additional time; or

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

e. If the court orders a sale by sealed bids or an auction, the court shall set terms and conditions of the sale.

f. If a purchaser is entitled to a share of the proceeds of the sale, the purchaser is entitled to a credit against the price in an amount equal to the purchaser’s share of the proceeds.

11. a. Unless otherwise required to do so within a shorter time, a broker appointed under subsection b. of section 10 of this act to offer heirs property by open-market sale shall file a report with the court not later than seven days after receiving an offer to purchase the property for at least the value determined under section 6 or 10 of this act.

b. The report required by subsection a. of this section shall contain the following information:

(1) A description of the property to be sold to each buyer;

(2) The name of each buyer;

(3) The proposed purchase price;

(4) The terms and conditions of the proposed sale, including the terms of any owner financing;

(5) The amounts to be paid to lienholders;

(6) A statement of contractual or other arrangements or conditions of the broker’s commission; and

(7) Any other material facts relevant to the sale.

12. This act modifies, limits, and supersedes the federal “Electronic Signatures in Global and National Commerce Act,” 15 U.S.C. section 7001 et seq., but does not modify, limit, or supersede section 101(c) of that act, 15 U.S.C. section 7001(c), or authorize electronic delivery of any of the notices described in section 103(b) of that act, 15 U.S.C. section 7003(b).

13. This act shall take effect on the 30th day next following enactment, and apply to any partition actions filed on or after that date.

STATEMENT

This bill, titled the “Uniform Partition of Heirs Property Act,” would provide an alternative process for handling partition actions filed in court concerning real property with multiple owners, at least one of whom had acquired title to the property from a relative. The bill is based on the 2010 uniform act of the same name drafted and approved by the Uniform Law Commission (formerly known, and sometimes still referred to, as the National Conference of Commissioners on Uniform State Laws).

Currently, any real property held by multiple owners as tenants in common (cotenants) may be subject to a partition action filed in Superior Court, which may result in (1) a partition in kind, which is the physical division of the property proportionate to individual owners’ interests, or (2) partition by sale, for which individual owners are then compensated out of the total purchase price proportionate to their interests. See N.J.S.2A:56-1 et seq. This bill would preempt some parts of the existing partition law in order to create new requirements for the process intended to more greatly protect the interests of cotenant property owners who may object to another owner's action seeking to partition any property which meets the following characteristics and is referred to in the bill as "heirs property":

- there is no agreement in a record binding all the cotenants which governs the partition of the property;
- one or more of the cotenants acquired title from a relative, whether living or deceased; and
- any one of the following applies: 20 percent or more of the interests are held by cotenants who are relatives; 20 percent or more of the interests are held by an individual who acquired title from a relative, whether living or deceased; or 20 percent or more of the cotenants are relatives.

When a partition action is filed pursuant to the partition law, N.J.S.2A:56-1 et seq., the court would make a determination, based on information contained in the pleadings or any other information provided to the court pursuant to the Rules of Court, whether the subject property is "heirs property." If so determined, the property would be partitioned in accordance with the process set forth in the bill. The court would appoint a special master to generally oversee the process and, when appropriate to carry out a partition in kind (the physical division of property), appoint a commissioner or commissioners pursuant R.4:63-1 of the Rules of Court "to ascertain and report in writing the metes and bounds of each [cotenant's] share." Any such appointed commissioner would be required to be disinterested, impartial, and not a party to or participant in the partition action.

The bill also provides that if the court determines that the property may be heirs property, the court would order the plaintiff to post, and maintain while the action is pending, a conspicuous notice on the property that is the subject of the action in accordance with the Rules of Court. That notice would state information about the partition action and the common designation by which the property is known, and the court could also require the party to include the party's name and the known defendants (other cotenants).

An appointed special master would direct a disinterested real estate appraiser licensed in the State to make a determination of the property's fair market value, assuming sole ownership of the fee simple estate, unless the cotenants have agreed to the property's value or to another valuation method, in which case the special master could accept that value or the value produced by the agreed upon method. If an appraisal was conducted, the completed appraisal would be distributed to the parties in the action and filed with the special master. Within 30 days after the appraisal is filed, any party could file an objection with the special master. Thereafter, following notice of a hearing, the special master could conduct an appraisal hearing to determine the fair market value of the property, during which the special master could consider evidence offered by any party in addition to the real estate appraisal on file.

If any cotenant requests a partition by sale after the determination of the property's value, a notice would be sent within 45 days by the party who filed the partition action to all parties and the special master indicating that any cotenant, except a cotenant that requested partition by sale, could buy all of the interests of the one or more cotenants requesting the sale. Within 30 days thereafter, any eligible cotenant or cotenants could then elect to buy all of those interests by giving notice of such to the parties and the special master. The purchase price for each of the interests of a cotenant requesting the partition by sale would be the determined value of the entire parcel of property multiplied by the cotenant's fractional ownership of the entire parcel.

At the conclusion of the buyout notice period, the bill provides for the following:

(1) If only one cotenant elected to buy all the interests of the cotenants that requested partition by sale, the cotenant would notify all the parties and the special master in writing;

(2) If more than one cotenant elected to buy all the interests of the cotenants that requested partition by sale, the special master would allocate the right to buy those interests among the electing cotenants based on each electing cotenant's existing fractional ownership of the entire parcel divided by the total existing fractional ownership of all cotenants electing to buy, and send written notice to all the parties of that fact and of the price to be paid by each electing cotenant; and

(3) If no cotenant elected to buy all the interests of the cotenants that requested partition by sale, the special master with notice to the parties would report in writing to the court, and the court would resolve the matter by ordering a partition in kind or partition by sale.

In situations when one or more cotenants elected to buy the available interests, each such cotenant would be required to pay their apportioned price within 30 days with notice to the special master. Upon timely payment by all purchasing cotenants, who would deposit their money in the Superior Court Trust Fund, the special master would issue an order reallocating the interests amongst the remaining cotenants and the money held by the trust fund would be disbursed, in accordance with procedures set forth in the Rules of Court, to the one or more cotenants who have been bought out. If no one made timely payments, the special master would report this to the court, which in turn would resolve the matter by ordering a partition in kind or partition by sale. If only some made timely payments, those paying cotenants could file a motion with the special master to determine the outstanding interests and their purchase price, and one or more such cotenants could thereafter pay, based upon a new special master order, for the recalculated remaining interests within 30 days following issuance of the order. After this new 30-day period, if there remained any interests for sale that are not purchased, the court would resolve the matter by ordering a partition in kind or partition by sale.

Whenever at the conclusion of the one or more buyout periods described above there remain any unpurchased interest from a cotenant that requested the partition by sale, or any cotenant remains that has requested a partition in kind, the special master would report to the court a recommendation to proceed with a partition in kind. The court would order the partitioning of the property into physically distinct and separately titled parcels, unless the court found that such partitioning would result in great prejudice to the cotenants as a group; the determination of "great prejudice" would be based on such factors as whether the property could be divided practicably amongst cotenants, whether doing so could decrease the aggregate values of the resulting parcels versus selling the property as a whole, and any cotenant's sentimental attachment to the property, including attachment arising because of any ancestral, unique, or special value to the cotenant. In a case in which a partition in kind would result in great prejudice, the court would order a partition by sale, unless no cotenant requested such action, resulting in the dismissal of the case and no further partitioning of the property.

Any partition by sale would be an open-market sale unless the court finds that a sale by sealed bids or an auction would be more economically advantageous and in the best interest of the cotenants as a group. Any open-market sale would proceed under a licensed real estate broker, either agreed to by the parties or, absent agreement, appointed by the court. The real estate broker would be provided a reasonable commission on the sale as determined by the court.

The broker would offer the property for sale in a commercially reasonable manner at a price no lower than the previously determined value of the property, and on the terms and conditions established by the court. The broker, after receiving an offer to purchase the property, would file a report with the court containing information about the purchase price, name of each buyer, terms of the proposed sale, including the terms of any financing, any amounts to be paid to lienholders, and other material facts relevant to the sale. Thereafter, the purchase could be completed in accordance with applicable State law and payments distributed based upon the former cotenants various interests in the property.

This bill would take effect on the 30th day following enactment, and apply to any partition actions filed on or after that date.

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 5448

STATE OF NEW JERSEY

DATED: MAY 8, 2025

The Assembly Judiciary Committee reports favorably Assembly Bill No. 5448.

This bill, titled the "Uniform Partition of Heirs Property Act," would provide an alternative process for handling partition actions filed in court concerning real property with multiple owners, at least one of whom had acquired title to the property from a relative. The bill is based on the 2010 uniform act drafted and approved by the Uniform Law Commission.

<u>Current Law and Bill Intent</u>

Currently, any real property held by multiple owners as tenants in common (cotenants) may be subject to a partition action filed in Superior Court, which may result in (1) a partition in kind, which is the physical division of the property proportionate to individual owners' interests, or (2) partition by sale, for which individual owners are compensated out of the total purchase price proportionate to their interests. *See* N.J.S.2A:56-1 et seq.

This bill would preempt parts of the existing partition law in order to create new requirements for the partition process. The intent is to provide greater protections for the interests of cotenant property owners who may object to another owner's action seeking to partition "heirs property."

<u>Eligible Property</u>

The bill would apply to "heirs property," which is defined under the bill as any property held by coteneants that meets the following characteristics:

- there is no agreement in a record binding all the cotenants which governs the partition of the property;

- one or more of the cotenants acquired title from a relative, whether living or deceased; and

- any one of the following applies: 20 percent or more of the interests are held by cotenants who are relatives; 20 percent or more of the interests are held by an individual who acquired title from a relative, whether living or deceased; or 20 percent or more of the cotenants are relatives.

Appointment of Special Master or Commissioner

When a partition action is filed, the court would make a determination, based on information contained in the pleadings or any other information provided to the court pursuant to the Rules of Court, whether the subject property is "heirs property." If so determined, the court would appoint a special master to generally oversee the process and may, when appropriate, appoint a commissioner or commissioners. Any such appointed commissioner would be required to be disinterested, impartial, and not a party to or participant in the partition action.

Posting of Notice

The bill also provides that if the court determines that the property may be heirs property, the court would order the plaintiff to post, and maintain while the action is pending, a conspicuous notice on the property that is the subject of the action in accordance with the Rules of Court. That notice would state information about the partition action and the common designation by which the property is known, and the court could also require the party to include the party's name and the known defendants (other cotenants).

Valuation of the Property

An appointed special master would direct a disinterested real estate appraiser licensed in the State to make a determination of the property's fair market value, assuming sole ownership of the fee simple estate. If the cotenants have agreed to the property's value or to another valuation method, the special master could accept that value or the value produced by the agreed upon method. If an appraisal is conducted, the completed appraisal would be distributed to the parties in the action and filed with the special master. Within 30 days after the appraisal is filed, any party could file an objection with the special master. Thereafter, following notice of a hearing, the special master could conduct an appraisal hearing to determine the fair market value of the property, during which the special master could consider evidence offered by any party in addition to the real estate appraisal on file.

Buyout Period Notice

If any cotenant requests a partition by sale after the determination of the property's value, a notice would be sent within 45 days by the party who filed the partition action to all parties and the special master indicating that any cotenant, except a cotenant that requested partition by sale, could buy all of the interests of the one or more cotenants requesting the sale. Within 30 days thereafter, any eligible cotenant or cotenants could then elect to buy all of those interests by giving notice of such to the parties and the special master. The purchase price for each of the interests of a cotenant requesting the partition by sale would be the determined value of the entire parcel of property multiplied by the cotenant's fractional ownership of the entire parcel.

At the conclusion of the buyout notice period, the bill provides for the following:

(1) If only one cotenant elected to buy all the interests of the cotenants that requested partition by sale, the cotenant would notify all the parties and the special master in writing;

(2) If more than one cotenant elected to buy all the interests of the cotenants that requested partition by sale, the special master would allocate the right to buy those interests among the electing cotenants based on each electing cotenant's existing fractional ownership of the entire parcel divided by the total existing fractional ownership of all cotenants electing to buy, and send written notice to all the parties of that fact and of the price to be paid by each electing cotenant; and

(3) If no cotenant elected to buy all the interests of the cotenants that requested partition by sale, the special master with notice to the parties would report in writing to the court, and the court would resolve the matter by ordering a partition in kind or partition by sale.

In situations when one or more cotenants elected to buy the available interests, each such cotenant would be required to pay their apportioned price within 30 days with notice to the special master.

Payment and Reallocation of Interests

Upon timely payment by all purchasing cotenants, who deposit their money in the Superior Court Trust Fund, the special master would issue an order reallocating the interests amongst the remaining cotenants and the money held by the trust fund would be disbursed, in accordance with procedures set forth in the Rules of Court, to the one or more cotenants who have been bought out.

If no one made timely payments, the special master would report this to the court, which in turn would resolve the matter by ordering a partition in kind or partition by sale. If only some made timely payments, those paying cotenants could file a motion with the special master to determine the outstanding interests and their purchase price, and one or more such cotenants could thereafter pay, based upon a new special master order, for the recalculated remaining interests within 30 days following issuance of the order. After this new 30-day period, if there remained any interests for sale that are not purchased, the court would resolve the matter by ordering a partition in kind or partition by sale.

Conditions for Partitions in Kind

Whenever at the conclusion of the one or more buyout periods described above there remain any unpurchased interest from a cotenant that requested the partition by sale, or any cotenant remains that has requested a partition in kind, the special master would report to the court a recommendation to proceed with a partition in kind. The court would order the partitioning of the property into physically distinct and separately titled parcels, unless the court found that such partitioning would result in great prejudice to the cotenants as a group; the determination of "great prejudice" would be based on such factors as whether the property could be divided practicably amongst cotenants, whether doing so could decrease the aggregate values of the resulting parcels versus selling the property as a whole, and any cotenant's sentimental attachment to the property, including attachment arising because of any ancestral, unique, or special value to the cotenant. In a case in which a partition in kind would result in great prejudice, the court would order a partition by sale, unless no cotenant requested such action, resulting in the dismissal of the case and no further partitioning of the property.

Conditions for Partition by Sale

Any partition by sale would be an open-market sale unless the court finds that a sale by sealed bids or an auction would be more economically advantageous and in the best interest of the cotenants as a group. Any open-market sale would proceed under a licensed real estate broker, either agreed to by the parties or, absent agreement, appointed by the court. The real estate broker would be provided a reasonable commission on the sale as determined by the court.

The broker would offer the property for sale in a commercially reasonable manner at a price no lower than the previously determined value of the property, and on the terms and conditions established by the court. The broker, after receiving an offer to purchase the property, would file a report with the court containing information about the purchase price, name of each buyer, terms of the proposed sale, including the terms of any financing, any amounts to be paid to lienholders, and other material facts relevant to the sale. Thereafter, the purchase could be completed in accordance with applicable State law and payments distributed based upon the former cotenants' various interests in the property.

Effective Date

This bill would take effect on the 30th day following enactment, and apply to any partition actions filed on or after that date.

As reported by the committee, Assembly Bill No. 5448 is identical to Senate Bill No. 1400, which was also reported by the committee on this date.

Governor Murphy Takes Action on Legislation

Posted on - 07/8/2025

TRENTON – Today, Governor Murphy signed the following bills into law:

S-1400/A-5448 (Singleton, Zwicker/Park, Freiman) - “Uniform Partition of Heirs Property Act”; provides alternative process for handling partition actions filed in court concerning real property with multiple owners, at least one of whom had acquired title from relative

S-1439/A-3856 (Singleton, A.M. Bucco/Sampson, McClellan, Miller) - Requires health benefits coverage for additional orthotic and prosthetic appliances under certain circumstances; requires coverage for orthotic and prosthetic appliances obtained through podiatrists

S-2886/A-4015 (Greenstein, Turner/McCoy) - Requires pharmacies to provide certain information regarding insulin manufacturer assistance programs

S-3787/A-5613 (Scutari, Ruiz/Pintor Marin, Morales) - Requires municipal tax collectors who obtain payments in lieu of taxes under "Long Term Tax Exemption Law" to transmit county portion directly to county

S-3850/A-5356 (Smith, Scutari/Karabinchak, Reynolds-Jackson) - Permits county boards of elections to extend distance within which electioneering is prohibited

S-3928/A-5322 (Ruiz, Scutari/Greenwald, Sampson) - Limits general application of certain consumer contracts

S-3961/A-5263 (Ruiz, Scutari/Haider, Morales, Karabinchak) - Requires public and certain nonpublic schools to offer no-fee option to parents for making school lunch and other payments; requires payment processing platforms used by certain schools to provide users with information on user fees

S-4162/A-5469 (Turner, Ruiz/Reynolds-Jackson, Carter, Morales) - Limits use or disclosure of certain education records

A-4113/S-2155 (Carter, Atkins/Cryan, McKeon) - Prohibits sports wagering partnerships at public institutions of higher education

A-5141/S-3813 (Peterpaul, Calabrese, Donlon/Gopal, O'Scanlon) - Establishes historic distillery license; allows consumption of licensee’s products on and off licensed premises under certain circumstances

A-5466/S-4318 (Bailey, Freiman, Reynolds-Jackson/Burzichelli, Greenstein) - Requires BPU to study effects of data centers on electricity costs

A-5736/S-4532 (Bailey, Simmons, Miller/Burzichelli, McKnight) - Updates certain notification requirements in "Energy Bill Watch" program