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

1    **AN ACT** concerning partition actions involving certain real property  
2       and supplementing chapter 56 of Title 2A of the New Jersey  
3       Statutes.  
4  
5       **BE IT ENACTED** *by the Senate and General Assembly of the State*  
6       *of New Jersey:*  
7  
8       1.   This act shall be known and may be cited as the “Uniform  
9       Partition of Heirs Property Act.”  
10  
11      2.   As used in this act:  
12       “Ascendant” means an individual who precedes another individual  
13       in lineage, in the direct line of ascent from the other individual.  
14       “Collateral” means an individual who is related to another  
15       individual under the law of intestate succession of this State but who is  
16       not the other individual’s ascendant or descendant.  
17       “Descendant” means an individual who follows another individual  
18       in lineage, in the direct line of descent from the other individual.  
19       “Determination of value” means a court order determining the fair  
20       market value of heirs property under section 6 or 10 of this act or  
21       adopting the valuation of the property agreed to by all cotenants.  
22       “Heirs property” means real property held in tenancy in common  
23       which satisfies all of the following requirements as of the filing of a  
24       partition action: (1) there is no agreement in a record binding all the  
25       cotenants which governs the partition of the property; (2) one or more  
26       of the cotenants acquired title from a relative, whether living or  
27       deceased; and (3) any of the following applies: (a) 20 percent or more  
28       of the interests are held by cotenants who are relatives; (b) 20 percent  
29       or more of the interests are held by an individual who acquired title  
30       from a relative, whether living or deceased; or (c) 20 percent or more  
31       of the cotenants are relatives.  
32       “Partition by sale” means a court-ordered sale of the entire heirs  
33       property, whether by auction, sealed bids, or open-market sale  
34       conducted under section 10 of this act.

1       “Partition in kind” means the division of heirs property into  
2 physically distinct and separately titled parcels.

3       “Record” means information that is inscribed on a tangible  
4 medium or that is stored in an electronic or other medium and is  
5 retrievable in perceivable form.

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

9  
10       3. a. In an action to partition real property under N.J.S.2A:56-1  
11 et seq., the court shall determine whether the property is heirs  
12 property. In making this determination, the court shall rely on  
13 information contained in the pleadings, or any other information  
14 provided to the court pursuant to the Rules of Court. If the court  
15 determines that the property is heirs property, pursuant to the Rules  
16 of Court, the court shall appoint a special master and may, when  
17 appropriate, appoint a commissioner or commissioners to partition  
18 the property under the partition process set forth in this act unless  
19 all of the cotenants otherwise agree in writing.

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

23  
24       4. If the plaintiff in a partition action seeks an order of notice  
25 by publication and the court determines that the property may be  
26 heirs property, the court shall order the plaintiff to post and  
27 maintain while the action is pending a conspicuous notice on the  
28 property that is the subject of the action in accordance with the  
29 Rules of Court. The notice shall state that a partition action has  
30 commenced and identify the name and address of the court and the  
31 common designation by which the property is known. The court  
32 may require the plaintiff to publish on the notice the name of the  
33 plaintiff and the known defendants.

34  
35       5. If the court appoints a commissioner or commissioners  
36 pursuant to N.J.S.2A:56-1 et seq. and the Rules of Court, each  
37 commissioner shall be disinterested, impartial, and not a party to or  
38 a participant in the partition action.

39  
40       6. a. (1) Except as otherwise provided in subsection b. of this  
41 section, if the court determines that the property involved in a  
42 partition action is heirs property, the special master shall direct a  
43 determination of the property’s fair market value, assuming sole  
44 ownership of the fee simple estate, be made by a disinterested real  
45 estate appraiser licensed in this State. On completion of the  
46 appraisal, the appraiser shall distribute the appraisal to the parties  
47 and file a sworn or verified appraisal with the special master.

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

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

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

10

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

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

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

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

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

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

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

44 e. If the parties under paragraph (1) or (2) of subsection d. of  
45 this section elect to buy all the interests, the cotenants shall be  
46 required to pay their apportioned price within 60 days to the  
47 Superior Court Trust Fund, in accordance with the procedures set

1 forth in the Rules of Court. After this date, the following shall  
2 apply:

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

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

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

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

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

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

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

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

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

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

13 (2) The purchase price for the interest of a non-appearing  
14 cotenant is based on the special master's determination of value  
15 under section 6 of this act.  
16

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

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

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

38 d. If the court orders partition in kind pursuant to subsection a.  
39 of this section, the court shall allocate to the cotenants that are  
40 unknown, un-locatable, or the subject of a default judgment, if their  
41 interests were not bought out pursuant to section 7 of this act, a part  
42 of the property representing the combined interests of these  
43 cotenants as determined by the court.  
44

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

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

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

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

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

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

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

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

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

27

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

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

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

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

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

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

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

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

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

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

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

19

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

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

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

29 (2) The name of each buyer;

30 (3) The proposed purchase price;

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

33 (5) The amounts to be paid to lienholders;

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

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

37

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

44

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

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“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.



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

4  
5       **BE IT ENACTED** *by the Senate and General Assembly of the State*  
6       *of New Jersey:*

7  
8       1. This act shall be known and may be cited as the “Uniform  
9       Partition of Heirs Property Act.”

10  
11      2. As used in this act:

12       “Ascendant” means an individual who precedes another individual  
13       in lineage, in the direct line of ascent from the other individual.

14       “Collateral” means an individual who is related to another  
15       individual under the law of intestate succession of this state but who is  
16       not the other individual’s ascendant or descendant.

17       “Descendant” means an individual who follows another individual  
18       in lineage, in the direct line of descent from the other individual.

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

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

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

35       “Partition in kind” means the division of heirs property into  
36       physically distinct and separately titled parcels.

37       “Record” means information that is inscribed on a tangible  
38       medium or that is stored in an electronic or other medium and is  
39       retrievable in perceivable form.

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

43  
44      3. a. In an action to partition real property under N.J.S.2A:56-1  
45       et seq., the court shall determine whether the property is heirs  
46       property. In making this determination, the court shall rely on  
47       information contained in the pleadings, or any other information  
48       provided to the court pursuant to the Rules of Court. If the court

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

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

9  
10 4. If the plaintiff in a partition action seeks an order of notice  
11 by publication and the court determines that the property may be  
12 heirs property, the court shall order the plaintiff to post and  
13 maintain while the action is pending a conspicuous notice on the  
14 property that is the subject of the action in accordance with the  
15 Rules of Court. The notice shall state that a partition action has  
16 commenced and identify the name and address of the court and the  
17 common designation by which the property is known. The court  
18 may require the plaintiff to publish on the notice the name of the  
19 plaintiff and the known defendants.

20  
21 5. If the court appoints a commissioner or commissioners  
22 pursuant to N.J.S.2A:56-1 et seq. and the Rules of Court, each  
23 commissioner shall be disinterested, impartial, and not a party to or  
24 a participant in the partition action.

25  
26 6. a. (1) Except as otherwise provided in subsection b. of this  
27 section, if the court determines that the property involved in a  
28 partition action is heirs property, the special master shall direct a  
29 determination of the property's fair market value, assuming sole  
30 ownership of the fee simple estate, be made by a disinterested real  
31 estate appraiser licensed in this State. On completion of the  
32 appraisal, the appraiser shall distribute the appraisal to the parties  
33 and file a sworn or verified appraisal with the special master.

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

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

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

43  
44 7. a. If any cotenant requests partition by sale, after the  
45 determination of value under section 6 of this act, the party filing  
46 the partition action shall send written notice to the parties and the  
47 special master within 30 days that any cotenant, except a cotenant

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28

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

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

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

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

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

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

1       (6) The degree to which the cotenants have contributed their pro  
2       rata share of the property taxes, insurance, and other expenses  
3       associated with maintaining ownership of the property or have  
4       contributed to the physical improvement, maintenance, or upkeep of  
5       the property; and  
6       (7) any other relevant factor as determined by the court.  
7       b. The court may not consider any one factor in subsection a.  
8       of this section to be dispositive without weighing the totality of all  
9       relevant factors and circumstances.  
10  
11       10. a. If the court orders a sale of heirs property, the sale shall  
12       be an open-market sale unless the court finds that a sale by sealed  
13       bids or an auction would be more economically advantageous and  
14       in the best interest of the cotenants as a group.  
15       b. If the court orders an open-market sale and the parties, not  
16       later than 10 days after the entry of the order, agree on a real estate  
17       broker licensed in this State to offer the property for sale, the court  
18       shall appoint the broker and establish a reasonable commission. If  
19       the parties do not agree on a broker, the court shall appoint a  
20       disinterested real estate broker licensed in this State to offer the  
21       property for sale and shall establish a reasonable commission. The  
22       broker shall offer the property for sale in a commercially reasonable  
23       manner at a price no lower than its determination of value pursuant  
24       to section 6 of this act and on the terms and conditions established  
25       by the court.  
26       c. If the broker appointed under subsection b. of this section  
27       obtains, within a reasonable time, an offer to purchase the property  
28       for at least the determination of value:  
29       (1) The broker shall comply with the reporting requirements in  
30       section 11 of this act; and  
31       (2) The sale may be completed in accordance with State law  
32       other than this act.  
33       d. If the broker appointed under subsection b. of this section  
34       does not obtain, within a reasonable time, an offer to purchase the  
35       property for at least the determination of value, the court, after  
36       hearing, may:  
37       (1) Approve the highest outstanding offer, if any;  
38       (2) Re-determine the value of the property and order that the  
39       property continue to be offered for an additional time; or  
40       (3) Order that the property be sold by sealed bids or at an  
41       auction.  
42       e. If the court orders a sale by sealed bids or an auction, the  
43       court shall set terms and conditions of the sale.  
44       f. If a purchaser is entitled to a share of the proceeds of the  
45       sale, the purchaser is entitled to a credit against the price in an  
46       amount equal to the purchaser's share of the proceeds.



1 create new requirements for the process intended to more greatly  
2 protect the interests of cotenant property owners who may object to  
3 another owner's action seeking to partition any property which  
4 meets the following characteristics and is referred to in the bill as  
5 "heirs property":

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

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

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

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

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

38 An appointed special master would direct a disinterested real  
39 estate appraiser licensed in the State to make a determination of the  
40 property's fair market value, assuming sole ownership of the fee  
41 simple estate, unless the cotenants have agreed to the property's  
42 value or to another valuation method, in which case the special  
43 master could accept that value or the value produced by the agreed  
44 upon method. If an appraisal was conducted, the completed  
45 appraisal would be distributed to the parties in the action and filed  
46 with the special master. Within 30 days after the appraisal is filed,  
47 any party could file an objection with the special master.  
48 Thereafter, following notice of a hearing, the special master could

1 conduct an appraisal hearing to determine the fair market value of  
2 the property, during which the special master could consider  
3 evidence offered by any party in addition to the real estate appraisal  
4 on file.

5 If any cotenant requests a partition by sale, after the  
6 determination of the property's value, a notice would be sent within  
7 45 days by the party who filed the partition action to all parties and  
8 the special master indicating that any cotenant, except a cotenant  
9 that requested partition by sale, could buy all of the interests of the  
10 one or more cotenants requesting the sale. Within 30 days  
11 thereafter, any eligible cotenant or cotenants could then elect to buy  
12 all of those interests by giving notice of such to the parties and the  
13 special master. The purchase price for each of the interests of a  
14 cotenant requesting the partition by sale would be the determined  
15 value of the entire parcel of property multiplied by the cotenant's  
16 fractional ownership of the entire parcel.

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

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

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

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

35 In situations when one or more cotenants elected to buy the  
36 available interests, each such cotenant would be required to pay  
37 their apportioned price within 30 days with notice to the special  
38 master. Upon timely payment by all purchasing cotenants, the  
39 special master would issue an order reallocating the interests  
40 amongst the remaining cotenants and the money held by the  
41 Superior Court Trust Fund would be disbursed, in accordance with  
42 procedures set forth in the Rules of Court, to the one or more  
43 cotenants who have been bought-out. If no one made timely  
44 payments, the special master would report this to the court, which  
45 in turn would resolve the matter by ordering a partition in kind or  
46 partition by sale. If only some made timely payments, those paying  
47 cotenants could file a motion with the special master to determine  
48 the outstanding interests and their purchase price, and one or more

1 such cotenants could thereafter pay, based upon a new special  
2 master order, for the recalculated remaining interests within 30 days  
3 following issuance of the order. After this new 30-day period, if  
4 there remained any interests for sale that are not purchased, the  
5 court would resolve the matter by ordering a partition in kind or  
6 partition by sale.

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

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

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

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

**SENATE, No. 1400**

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**STATE OF NEW JERSEY**

**221st LEGISLATURE**

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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)**

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

4  
5       **BE IT ENACTED** *by the Senate and General Assembly of the State*  
6       *of New Jersey:*

7  
8       1. This act shall be known and may be cited as the “Uniform  
9       Partition of Heirs Property Act.”

10  
11      2. As used in this act:

12       “Ascendant” means an individual who precedes another individual  
13       in lineage, in the direct line of ascent from the other individual.

14       “Collateral” means an individual who is related to another  
15       individual under the law of intestate succession of this State but who is  
16       not the other individual’s ascendant or descendant.

17       “Descendant” means an individual who follows another individual  
18       in lineage, in the direct line of descent from the other individual.

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

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

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

35       “Partition in kind” means the division of heirs property into  
36       physically distinct and separately titled parcels.

37       “Record” means information that is inscribed on a tangible  
38       medium or that is stored in an electronic or other medium and is  
39       retrievable in perceivable form.

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

43  
44      3. a. In an action to partition real property under N.J.S.2A:56-1  
45       et seq., the court shall determine whether the property is heirs  
46       property. In making this determination, the court shall rely on  
47       information contained in the pleadings, or any other information  
48       provided to the court pursuant to the Rules of Court. If the court

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

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

9  
10 4. If the plaintiff in a partition action seeks an order of notice  
11 by publication and the court determines that the property may be  
12 heirs property, the court shall order the plaintiff to post and  
13 maintain while the action is pending a conspicuous notice on the  
14 property that is the subject of the action in accordance with the  
15 Rules of Court. The notice shall state that a partition action has  
16 commenced and identify the name and address of the court and the  
17 common designation by which the property is known. The court  
18 may require the plaintiff to publish on the notice the name of the  
19 plaintiff and the known defendants.

20  
21 5. If the court appoints a commissioner or commissioners  
22 pursuant to N.J.S.2A:56-1 et seq. and the Rules of Court, each  
23 commissioner shall be disinterested, impartial, and not a party to or  
24 a participant in the partition action.

25  
26 6. a. (1) Except as otherwise provided in subsection b. of this  
27 section, if the court determines that the property involved in a  
28 partition action is heirs property, the special master shall direct a  
29 determination of the property's fair market value, assuming sole  
30 ownership of the fee simple estate, be made by a disinterested real  
31 estate appraiser licensed in this State. On completion of the  
32 appraisal, the appraiser shall distribute the appraisal to the parties  
33 and file a sworn or verified appraisal with the special master.

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

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

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

43  
44 7. a. If any cotenant requests partition by sale, after the  
45 determination of value under section 6 of this act, the party filing  
46 the partition action shall send written notice to the parties and the  
47 special master within 30 days that any cotenant, except a cotenant

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28

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

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

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

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

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

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

1       (6) The degree to which the cotenants have contributed their pro  
2       rata share of the property taxes, insurance, and other expenses  
3       associated with maintaining ownership of the property or have  
4       contributed to the physical improvement, maintenance, or upkeep of  
5       the property; and  
6       (7) any other relevant factor as determined by the court.  
7       b. The court may not consider any one factor in subsection a.  
8       of this section to be dispositive without weighing the totality of all  
9       relevant factors and circumstances.  
10  
11       10. a. If the court orders a sale of heirs property, the sale shall  
12       be an open-market sale unless the court finds that a sale by sealed  
13       bids or an auction would be more economically advantageous and  
14       in the best interest of the cotenants as a group.  
15       b. If the court orders an open-market sale and the parties, not  
16       later than 10 days after the entry of the order, agree on a real estate  
17       broker licensed in this State to offer the property for sale, the court  
18       shall appoint the broker and establish a reasonable commission. If  
19       the parties do not agree on a broker, the court shall appoint a  
20       disinterested real estate broker licensed in this State to offer the  
21       property for sale and shall establish a reasonable commission. The  
22       broker shall offer the property for sale in a commercially reasonable  
23       manner at a price no lower than its determination of value pursuant  
24       to section 6 of this act and on the terms and conditions established  
25       by the court.  
26       c. If the broker appointed under subsection b. of this section  
27       obtains, within a reasonable time, an offer to purchase the property  
28       for at least the determination of value:  
29       (1) The broker shall comply with the reporting requirements in  
30       section 11 of this act; and  
31       (2) The sale may be completed in accordance with State law  
32       other than this act.  
33       d. If the broker appointed under subsection b. of this section  
34       does not obtain, within a reasonable time, an offer to purchase the  
35       property for at least the determination of value, the court, after  
36       hearing, may:  
37       (1) Approve the highest outstanding offer, if any;  
38       (2) Re-determine the value of the property and order that the  
39       property continue to be offered for an additional time; or  
40       (3) Order that the property be sold by sealed bids or at an  
41       auction.  
42       e. If the court orders a sale by sealed bids or an auction, the  
43       court shall set terms and conditions of the sale.  
44       f. If a purchaser is entitled to a share of the proceeds of the  
45       sale, the purchaser is entitled to a credit against the price in an  
46       amount equal to the purchaser's share of the proceeds.

- 1        11. a. Unless otherwise required to do so within a shorter time,  
2 a broker appointed under subsection b. of section 10 of this act to  
3 offer heirs property by open-market sale shall file a report with the  
4 court not later than seven days after receiving an offer to purchase  
5 the property for at least the value determined under section 6 or 10  
6 of this act.
- 7        b. The report required by subsection a. of this section shall  
8 contain the following information:
- 9        (1) A description of the property to be sold to each buyer;  
10        (2) The name of each buyer;  
11        (3) The proposed purchase price;  
12        (4) The terms and conditions of the proposed sale, including the  
13 terms of any owner financing;  
14        (5) The amounts to be paid to lienholders;  
15        (6) A statement of contractual or other arrangements or  
16 conditions of the broker's commission; and  
17        (7) Any other material facts relevant to the sale.  
18
- 19        12. This act modifies, limits, and supersedes the federal  
20 "Electronic Signatures in Global and National Commerce Act," 15  
21 U.S.C. section 7001 et seq., but does not modify, limit, or supersede  
22 section 101(c) of that act, 15 U.S.C. section 7001(c), or authorize  
23 electronic delivery of any of the notices described in section 103(b)  
24 of that act, 15 U.S.C. section 7003(b).  
25
- 26        13. This act shall take effect on the 30th day next following  
27 enactment, and apply to any partition actions filed on or after that  
28 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.

Current Law and Bill Intent

Currently, any real property held by multiple owners as tenants in common (coteneants) 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.”

Eligible Property

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 coteneants which governs the partition of the property;
- one or more of the coteneants 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 coteneants 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 coteneants 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, 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**

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**STATE OF NEW JERSEY**

**221st LEGISLATURE**

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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)**

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

4  
5 BE IT ENACTED by the Senate and General Assembly of the State  
6 of New Jersey:

7  
8 1. This act shall be known and may be cited as the “Uniform  
9 Partition of Heirs Property Act.”

10  
11 2. As used in this act:

12 “Ascendant” means an individual who precedes another individual  
13 in lineage, in the direct line of ascent from the other individual.

14 “Collateral” means an individual who is related to another  
15 individual under the law of intestate succession of this State but who is  
16 not the other individual’s ascendant or descendant.

17 “Descendant” means an individual who follows another individual  
18 in lineage, in the direct line of descent from the other individual.

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

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

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

35 “Partition in kind” means the division of heirs property into  
36 physically distinct and separately titled parcels.

37 “Record” means information that is inscribed on a tangible  
38 medium or that is stored in an electronic or other medium and is  
39 retrievable in perceivable form.

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

43  
44 3. a. In an action to partition real property under N.J.S.2A:56-1  
45 et seq., the court shall determine whether the property is heirs  
46 property. In making this determination, the court shall rely on  
47 information contained in the pleadings, or any other information  
48 provided to the court pursuant to the Rules of Court. If the court

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

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

9  
10 4. If the plaintiff in a partition action seeks an order of notice  
11 by publication and the court determines that the property may be  
12 heirs property, the court shall order the plaintiff to post and  
13 maintain while the action is pending a conspicuous notice on the  
14 property that is the subject of the action in accordance with the  
15 Rules of Court. The notice shall state that a partition action has  
16 commenced and identify the name and address of the court and the  
17 common designation by which the property is known. The court  
18 may require the plaintiff to publish on the notice the name of the  
19 plaintiff and the known defendants.

20  
21 5. If the court appoints a commissioner or commissioners  
22 pursuant to N.J.S.2A:56-1 et seq. and the Rules of Court, each  
23 commissioner shall be disinterested, impartial, and not a party to or  
24 a participant in the partition action.

25  
26 6. a. (1) Except as otherwise provided in subsection b. of this  
27 section, if the court determines that the property involved in a  
28 partition action is heirs property, the special master shall direct a  
29 determination of the property's fair market value, assuming sole  
30 ownership of the fee simple estate, be made by a disinterested real  
31 estate appraiser licensed in this State. On completion of the  
32 appraisal, the appraiser shall distribute the appraisal to the parties  
33 and file a sworn or verified appraisal with the special master.

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

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

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

43  
44 7. a. If any cotenant requests partition by sale, after the  
45 determination of value under section 6 of this act, the party filing  
46 the partition action shall send written notice to the parties and the  
47 special master within 30 days that any cotenant, except a cotenant

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28

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

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

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

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

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

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

- 1       (6) The degree to which the cotenants have contributed their pro  
2 rata share of the property taxes, insurance, and other expenses  
3 associated with maintaining ownership of the property or have  
4 contributed to the physical improvement, maintenance, or upkeep of  
5 the property; and  
6       (7) any other relevant factor as determined by the court.  
7       b. The court may not consider any one factor in subsection a.  
8 of this section to be dispositive without weighing the totality of all  
9 relevant factors and circumstances.  
10  
11       10. a. If the court orders a sale of heirs property, the sale shall  
12 be an open-market sale unless the court finds that a sale by sealed  
13 bids or an auction would be more economically advantageous and  
14 in the best interest of the cotenants as a group.  
15       b. If the court orders an open-market sale and the parties, not  
16 later than 10 days after the entry of the order, agree on a real estate  
17 broker licensed in this State to offer the property for sale, the court  
18 shall appoint the broker and establish a reasonable commission. If  
19 the parties do not agree on a broker, the court shall appoint a  
20 disinterested real estate broker licensed in this State to offer the  
21 property for sale and shall establish a reasonable commission. The  
22 broker shall offer the property for sale in a commercially reasonable  
23 manner at a price no lower than its determination of value pursuant  
24 to section 6 of this act and on the terms and conditions established  
25 by the court.  
26       c. If the broker appointed under subsection b. of this section  
27 obtains, within a reasonable time, an offer to purchase the property  
28 for at least the determination of value:  
29       (1) The broker shall comply with the reporting requirements in  
30 section 11 of this act; and  
31       (2) The sale may be completed in accordance with State law  
32 other than this act.  
33       d. If the broker appointed under subsection b. of this section  
34 does not obtain, within a reasonable time, an offer to purchase the  
35 property for at least the determination of value, the court, after  
36 hearing, may:  
37       (1) Approve the highest outstanding offer, if any;  
38       (2) Re-determine the value of the property and order that the  
39 property continue to be offered for an additional time; or  
40       (3) Order that the property be sold by sealed bids or at an  
41 auction.  
42       e. If the court orders a sale by sealed bids or an auction, the  
43 court shall set terms and conditions of the sale.  
44       f. If a purchaser is entitled to a share of the proceeds of the  
45 sale, the purchaser is entitled to a credit against the price in an  
46 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

1 create new requirements for the process intended to more greatly  
2 protect the interests of cotenant property owners who may object to  
3 another owner's action seeking to partition any property which  
4 meets the following characteristics and is referred to in the bill as  
5 "heirs property":

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

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

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

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

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

38 An appointed special master would direct a disinterested real  
39 estate appraiser licensed in the State to make a determination of the  
40 property's fair market value, assuming sole ownership of the fee  
41 simple estate, unless the cotenants have agreed to the property's  
42 value or to another valuation method, in which case the special  
43 master could accept that value or the value produced by the agreed  
44 upon method. If an appraisal was conducted, the completed  
45 appraisal would be distributed to the parties in the action and filed  
46 with the special master. Within 30 days after the appraisal is filed,  
47 any party could file an objection with the special master.  
48 Thereafter, following notice of a hearing, the special master could

1 conduct an appraisal hearing to determine the fair market value of  
2 the property, during which the special master could consider  
3 evidence offered by any party in addition to the real estate appraisal  
4 on file.

5 If any cotenant requests a partition by sale after the  
6 determination of the property's value, a notice would be sent within  
7 45 days by the party who filed the partition action to all parties and  
8 the special master indicating that any cotenant, except a cotenant  
9 that requested partition by sale, could buy all of the interests of the  
10 one or more cotenants requesting the sale. Within 30 days  
11 thereafter, any eligible cotenant or cotenants could then elect to buy  
12 all of those interests by giving notice of such to the parties and the  
13 special master. The purchase price for each of the interests of a  
14 cotenant requesting the partition by sale would be the determined  
15 value of the entire parcel of property multiplied by the cotenant's  
16 fractional ownership of the entire parcel.

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

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

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

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

35 In situations when one or more cotenants elected to buy the  
36 available interests, each such cotenant would be required to pay  
37 their apportioned price within 30 days with notice to the special  
38 master. Upon timely payment by all purchasing cotenants, who  
39 would deposit their money in the Superior Court Trust Fund, the  
40 special master would issue an order reallocating the interests  
41 amongst the remaining cotenants and the money held by the trust  
42 fund would be disbursed, in accordance with procedures set forth in  
43 the Rules of Court, to the one or more cotenants who have been  
44 bought out. If no one made timely payments, the special master  
45 would report this to the court, which in turn would resolve the  
46 matter by ordering a partition in kind or partition by sale. If only  
47 some made timely payments, those paying cotenants could file a  
48 motion with the special master to determine the outstanding

1 interests and their purchase price, and one or more such cotenants  
2 could thereafter pay, based upon a new special master order, for the  
3 recalculated remaining interests within 30 days following issuance  
4 of the order. After this new 30-day period, if there remained any  
5 interests for sale that are not purchased, the court would resolve the  
6 matter by ordering a partition in kind or partition by sale.

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

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

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

45 This bill would take effect on the 30th day following enactment,  
46 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.

Current Law and Bill Intent

Currently, any real property held by multiple owners as tenants in common (coteneants) 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.”

Eligible Property

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 coteneants which governs the partition of the property;
- one or more of the coteneants 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 coteneants 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 coteneants 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