DIGEST

HB 400 Reengrossed   2021 Regular Session   Coussan

Abstract: Provides relative to requirements for partitions of co-owned property.

Present law (C.C. Art. 811) provides for partitions by licitation and private sale.

Proposed law (C.C. Art. 811) retains present law but provides that partitions for private sales among co-owners as petitioned by a co-owner shall be prioritized.

Present law (C.C.P. Art. 4607) provides that private sales without the consent of all co-owners shall not be for less than two-thirds of the appraised value of the property.

Proposed law (C.C.P. Art. 4607) provides that the sale shall not be for less than the appraised value of the property and clarifies that the private sale shall be executed with a court-appointed representative on behalf of the absentee or non-consenting co-owner.

Present law (C.C.P. Art. 4622) provides for the petition requirements for partition of property owned by an absentee. The petition requirements shall describe the property and be supported by an affidavit of the petitioner or petitioner's counsel.

Present law (C.C.P. Art. 4622) provides for petition requirements for private sale. The petition for private sale shall describe the primary terms of the proposed sale, identify the proposed purchaser, including whether the proposed purchaser is related to any co-owner, and disclose to the petitioning co-owners whether there are any costs associated with the sale that will be paid to any person related to the petitioning co-owners within the fourth degree or a juridical entity in which he co-owner has a direct or indirect financial interest.

Proposed law (C.C.P. Art. 4622) provides that the partition petition among co-owners shall have priority status for consideration by the court. The petition shall describe the primary terms of the proposed sale, identify the proposed purchaser and whether the proposed purchaser is a co-owner or third party, declare the source of funds to be used in the sale, and if the proposed purchaser is a juridical entity, disclose whether any co-owner has a relationship with that entity.

Proposed law (C.C.P. Art. 4622) provides that upon judgment ordering the sale, payment shall be made using certified funds within 24 hours.

Present law (C.C.P. Art. 4624) provides for the publication of the notice of partition proceeding. The notice shall notify the absent defendant that the plaintiff is seeking to have the property partitioned

and that the absent defendant has 15 days from the date of the publication of initial notice to answer the plaintiff's petition.

Proposed law (C.C.P. Art. 4624) retains present law but clarifies the partition by licitation or by private sale are to be governed by Chapters 1 and 2 of Title IX of Book VII of the Code of Civil Procedure.

Present law (C.C.P. Art. 4625) provides for trial and judgments related to the partition of co-owned property.

Proposed law (C.C.P. Art. 4625) retains present law but clarifies that the absentee or non-consenting co-owner shall be represented by a court-appointed representative, who may also be a co-owner.

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

(Amends C.C. Art. 811 and C.C.P. Arts. 4607, 4622, 4624, and 4625)

Summary of Amendments Adopted by House

The House Floor Amendments to the engrossed bill:

1.   Require that for partitions by private sale without the consent of all co-owners, the sale shall be for the appraised value.

2.   Add that the petition shall disclose the name of the proposed purchaser, whether the proposed purchaser is a co-owner or third party, and if the proposed purchaser is a juridical entity, whether that entity has a relationship with any co-owner.