

Regular Session, 2014

SENATE BILL NO. 39

BY SENATOR MURRAY

CIVIL PROCEDURE. Provides relative to partitions of immovable property and minority interests. (gov sig)

1 AN ACT
2 To amend and reenact R.S. 9:1113, relative to partition of immovable property; to provide
3 relative to minority interests; to provide relative to private sales; to provide certain
4 terms, conditions, and procedures; and to provide for related matters.
5 Be it enacted by the Legislature of Louisiana:
6 Section 1. R.S. 9:1113 is hereby amended and reenacted to read as follows:
7 §1113. Partition of immovable property; minority interest; private sale; appraisal
8 A. ~~If immovable property is susceptible of partition by licitation or private~~
9 ~~sale pursuant to Civil Code Article 811 and a co-owner or co-owners owning an~~
10 ~~aggregate interest of fifteen percent or less of the immovable property petition the~~
11 ~~court to partition the property, the court shall allow the remaining co-owners to~~
12 ~~purchase at private sale the petitioners' shares at a price determined by a court-~~
13 ~~appointed appraiser.~~ **If immovable property is susceptible of partition by**
14 **licitation or private sale pursuant to Civil Code Article 811, and a petition to**
15 **partition the property is filed by a co-owner or co-owners owning either an**
16 **aggregate interest of fifteen percent or less of the immovable property or an**
17 **aggregate interest of twenty percent or less of the immovable property if there**

1 **was past ownership of the whole by a common ascendant, the court shall allow**
2 **the remaining co-owners to purchase at private sale the petitioners' shares at**
3 **a price determined by a court-appointed appraiser.**

4 B.(1) Each remaining co-owner shall only be entitled to purchase a portion
5 of the property being sold equal to his pro rata share. Each remaining co-owner shall
6 have thirty days from the date the last defendant is served with the petition to
7 partition or thirty days from receipt of written notice, sent by certified mail or
8 commercial courier, from a co-owner waiving his right to purchase, whichever is
9 earlier, in which to file a notice to exercise his option to purchase his pro rata share
10 of the property being sold. **Where past ownership of the property was by a**
11 **common ascendant, each remaining co-owner shall have ninety rather than**
12 **thirty days to file the notice provided by this Paragraph.** The filed notice, which
13 shall be served on all parties, shall be considered a fully binding contract to purchase
14 the property.

15 (2) Upon the lapse of the ~~thirtieth day~~ **time in which to file the notice**
16 **required in Paragraph (1) of this Subsection,** any co-owner who has failed to
17 timely exercise his option to purchase the property shall relinquish his right to
18 purchase his pro rata share. The relinquishment of the right to purchase shall enure
19 to the benefit of the remaining purchasing co-owners, who shall then be entitled to
20 purchase, by pro rata share, the shares made available by the co-owner who
21 relinquished his right to purchase. Each remaining purchasing co-owner shall have
22 an additional ten days from the previous deadline to file his notice to purchase the
23 relinquished shares.

24 (3) The procedures provided in this Subsection shall continue until there are
25 no outstanding forfeited shares; however, the court may use its discretion in rounding
26 the shares of the co-owners to the nearest hundredth share.

27 (4) The initial calculation of the pro rata share in ~~Subsection B of this Section~~
28 **this Subsection** shall be based on the percentage of ownership of potential
29 purchasing co-owners, excluding the petitioning co-owners. When a potential

1 purchasing co-owner relinquishes his right to purchase, the pro rata share shall be
 2 recalculated to include only the remaining purchasing co-owners, excluding the
 3 relinquishing co-owners. Once a purchasing co-owner relinquishes his right to
 4 purchase his pro rata share, he shall not be entitled to file any subsequent notice to
 5 purchase in the pending action.

6 Section 2. This Act shall become effective upon signature by the governor or, if not
 7 signed by the governor, upon expiration of the time for bills to become law without signature
 8 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 9 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 10 effective on the day following such approval.

The original instrument was prepared by Jerry G. Jones. The following
 digest, which does not constitute a part of the legislative instrument, was
 prepared by Linda Nugent.

DIGEST

Murray (SB 39)

Present law relative to partition of immovable property provides that if immovable property is susceptible of partition by licitation or private sale and a co-owner or co-owners owning an aggregate interest of 15% or less of the immovable property petition the court to partition the property, the court shall allow the remaining co-owners to purchase at private sale the petitioners' shares at a price determined by a court-appointed appraiser.

Proposed law provides that if immovable property is susceptible of partition by licitation or private sale, and a petition to partition the property is filed by a co-owner or co-owners owning either an aggregate interest of 15% or less of the immovable property or an aggregate interest of 20% or less of the immovable property if there was past ownership of the whole by a common ascendant, the court shall allow the remaining co-owners to purchase at private sale the petitioners' shares at a price determined by a court-appointed appraiser.

Present law provides that each remaining co-owner shall only be entitled to purchase a portion of the property being sold equal to his pro rata share. Each remaining co-owner shall have 30 days from the date the last defendant is served with the petition to partition or 30 days from receipt of written notice, sent by certified mail or commercial courier, from a co-owner waiving his right to purchase, whichever is earlier, in which to file a notice to exercise his option to purchase his pro rata share of the property being sold. Proposed law adds that where past ownership of the property was by a common ascendant, each remaining co-owner shall have 90 rather than 30 days to file such notice.

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

(Amends R.S. 9:1113)

Summary of Amendments Adopted by Senate

Senate Floor Amendments to engrossed bill

1. Clarifies the time limits within which a co-owner has to exercise his option to purchase the property.