

**ACT No. 281**

2020 Regular Session

HOUSE BILL NO. 594

BY REPRESENTATIVE SEABAUGH

1 AN ACT

2 To amend and reenact Civil Code Article 811 and Code of Civil Procedure Articles 4607,  
3 4621, 4622, 4624, 4625, 4626, 4627, 4629, and 4643 and to enact Code of Civil  
4 Procedure Article 4626.1, relative to property; to provide for partitions by private  
5 sale; to provide for absentee co-owners; to provide for publication notice; to provide  
6 for petitions, trials, and judgments of partitions by private sale; to provide for the  
7 appointment of an attorney; to provide for an effective date; and to provide for  
8 related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. Civil Code Article 811 is hereby amended and reenacted to read as  
11 follows:

12 Art. 811. Partition by licitation or by private sale

13 When the thing held in indivision is not susceptible to partition in kind, the  
14 court shall decree a partition by licitation or by private sale and the proceeds shall  
15 be distributed to the co-owners in proportion to their shares. In the event that one or  
16 more of the co-owners are absentees or have not consented to a partition by private  
17 sale, the court may set the terms of the sale and order a partition by private sale.

18 Section 2. Code of Civil Procedure Articles 4607, 4621, 4622, 4624, 4625, 4626,  
19 4627, 4629, and 4643 are hereby amended and reenacted and Code of Civil Procedure  
20 Article 4626.1 is hereby enacted to read as follows:

21 Art. 4607. Partition by licitation or by private sale

22 When a partition is to be made by licitation, the sale shall be conducted at  
23 public auction and after the advertisements required for judicial sales under  
24 execution. When a partition is to be made at private sale without the consent of all

1 co-owners, the sale shall be for not less than two-thirds of the appraised value of the  
2 property and shall be made by a court-appointed representative, who may be a co-  
3 owner, after the advertisements required for judicial sales under execution are made.

4 All counsel of record, including curators appointed to represent absentee defendants,  
5 and persons appearing in proper person shall be given notice of the sale date. At any  
6 time prior to the sale, the parties may agree upon a nonjudicial partition.

7 \* \* \*

8 Art. 4621. Partition by licitation or private sale

9 When one of the co-owners of property sought to be partitioned is an  
10 absentee, the partition may be effected by licitation or by private sale, as provided  
11 in this Chapter, whether the property is divisible in kind or not.

12 Art. 4622. Petition

13 The petition for the partition of property in which an absentee owns an  
14 interest, under the articles of this Chapter, shall allege the facts showing that the  
15 absent and unrepresented defendant is an absentee, as defined in Article 5251, shall  
16 describe the property sought to be partitioned and allege the ownership interests  
17 thereof, and shall be supported by an affidavit of the petitioner or of his counsel that  
18 the facts alleged in the petition are true. If the partition is to be made by private sale,  
19 the petition shall describe the primary terms of the proposed sale, identify the  
20 proposed purchaser, if any, disclose whether the proposed purchaser is related to any  
21 co-owner, and disclose to the petitioning co-owners whether any costs associated  
22 with the sale will be paid to any person related to the petitioning co-owners within  
23 the fourth degree or a juridical entity in which the co-owner has a direct or indirect  
24 financial interest.

25 \* \* \*

26 Art. 4624. Publication of notice

27 Notice of the institution of the proceeding shall be published at least once in  
28 the parish where the partition proceeding is instituted, in the manner provided by  
29 law. This notice shall set forth the title and docket number of the proceeding, the  
30 name and address of the court, ~~and~~ a description of the property sought to be

1 partitioned, and the terms of the private sale and shall notify the absent defendant  
 2 that the plaintiff is seeking to have the property partitioned by licitation or by private  
 3 sale, and that the absent defendant has fifteen days from the date of the publication  
 4 of notice, or of the initial publication of notice if there is more than one publication,  
 5 to answer the plaintiff's petition.

6 Art. 4625. Trial; judgment ordering sale

7 Except as otherwise provided in Article 4630, if the petitioner proves on the  
 8 trial of the proceeding that he is a co-owner of the property and entitled to the  
 9 partition thereof and that the defendant is an absentee who owns an interest therein,  
 10 the court shall render judgment ordering either the public sale of the property for  
 11 cash by the sheriff to effect a partition, after the advertisement required by law for  
 12 a sale under execution: or the private sale of the property for cash by the court-  
 13 appointed representative to effect a partition, after the advertisement required by law  
 14 for a sale under execution.

15 The judgment shall determine the absentee's share in the proceeds of the sale,  
 16 and award a reasonable fee to the attorney appointed to represent him to be paid from  
 17 the absentee's share of the proceeds of the sale.

18 Art. 4626. Judgment ordering reimbursement or payment of amounts due co-owner  
 19 out of proceeds of public sale

20 A judgment ordering the public sale of property to effect a partition under the  
 21 provisions of this Chapter shall order, out of the proceeds of such sale, all of the  
 22 following:

23 (1) The reimbursement to a co-owner of the amount proven to be due ~~him~~  
 24 the co-owner for the payment of taxes on the property, and the expenses of  
 25 preservation ~~thereof, and~~ of the property.

26 (2) The payment to a co-owner of the amount proven to be due ~~him~~ the co-  
 27 owner by another co-owner who has received and retained the fruits and revenues  
 28 of the property.



