

## RÉSUMÉ DIGEST

**ACT 27 (HB 400)**

**2021 Regular Session**

**Coussan**

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

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

Prior law (C.C.P. Art. 4607) prohibited private sales without the consent of all co-owners from being for less than two-thirds of the appraised value of the property.

New 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.

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

New law (C.C.P. Art. 4622) provides that the petition for partition 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.

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

Existing law (C.C.P. Art. 4624) provides for the publication of the notice of the partition proceeding. Requires notice to 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.

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

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

New law (C.C.P. Art. 4625) retains existing 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 (June 1, 2021).

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