

State of Arkansas
89th General Assembly
Regular Session, 2013

A Bill

SENATE BILL 1048

By: Senator J. Hutchinson

For An Act To Be Entitled

AN ACT TO REGULATE PARTITION SALES; TO PERMIT
NEGOTIATED SALES IN PARTITION ACTIONS; TO DECLARE AN
EMERGENCY; AND FOR OTHER PURPOSES.

Subtitle

TO REGULATE PARTITION SALES; TO PERMIT
NEGOTIATED SALES IN PARTITION ACTIONS;
AND TO DECLARE AN EMERGENCY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. DO NOT CODIFY. Findings and intent.

(a) The General Assembly finds that:

(1) Current law concerning partition actions is susceptible of an interpretation that all partition sales are required to be conducted at public auction;

(2) Requiring all partition sales to be conducted at public auction may be contrary to the interests of the property owners in some circumstances;

(3) The interest of affected property owners may be better served by permitting courts to order a negotiated sale of property that is being partitioned; and

(4) Permitting courts additional flexibility to order the best manner for conducting a partition sale is a procedural change that should be implemented immediately.

(b) It is the intent of this act to allow a court in a partition action to:



(1) Order the sale of all or part of the property to be sold by a negotiated sale;

(2) Establish the terms and conditions of the negotiated sale;
and

(3) To permit the change in the procedure for selling property in a partition action authorized by this act to apply to cases filed after the effective date of this act.

SECTION 2. Arkansas Code § 18-60-420(a), concerning the sale of land in a partition action, is amended to read as follows:

(a) If the commissioners ~~so~~ appointed under this subchapter shall report to the court that all or part of the land or tenements of which partition had been directed are so situated, ~~or that any lot or portion thereof is so situated,~~ that partition ~~thereof~~ cannot be made without great prejudice to the owners ~~thereof~~ of the land or tenements, the court may, if satisfied that the report is just and correct, make an order that the commissioners sell ~~the premises so situated,~~ all or part of the land or tenements:

(1) ~~at~~ At public auction, to the highest bidder; or

(2) By a negotiated sale under terms and conditions established by the court, including without limitation by engaging a licensed real estate broker to sell the land or tenements.

SECTION 3. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that the procedure for selling land in a partition action does not allow a method for listing the property for sale or obtaining the best price for the property through a negotiated sale; that a procedural change to permit more flexibility to obtain the best price for property subject to partition should be authorized for the benefit of owners of real property; and that this act is immediately necessary to provide these benefits to pending and future cases to protect the property rights and interest of owners of real property. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

(1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.