

April 16, 2007

H 1527. PARTITION SALES OF REAL PROPERTY. Filed 4/16/07. *ALLOWING THE PARTITION SALE OF REAL PROPERTY ONLY WHEN IT IS IN THE BEST INTEREST OF THE COTENANTS, AUTHORIZING NONPETITIONING COTENANTS TO BUY OUT THE INTEREST OF PETITIONING COTENANTS, AND PROHIBITING THE ASSESSING OF ATTORNEYS' FEES AGAINST NONPETITIONING COTENANTS.*

To be summarized in tomorrow's *Daily Bulletin*.

Intro. by Bryant.

GS 6, 46

April 17, 2007

H 1527. PARTITION SALES OF REAL PROPERTY. Filed 4/16/07. *ALLOWING THE PARTITION SALE OF REAL PROPERTY ONLY WHEN IT IS IN THE BEST INTEREST OF THE COTENANTS, AUTHORIZING NONPETITIONING COTENANTS TO BUY OUT THE INTEREST OF PETITIONING COTENANTS, AND PROHIBITING THE ASSESSING OF ATTORNEYS' FEES AGAINST NONPETITIONING COTENANTS.*

Amends GS 46-22 to allow the court to order the sale of a property only if the court finds that a sale is in the best interest of all of the cotenants. Lists factors that are to be considered by the court in determining best interest, including the use of the property for the livelihood of any cotenant, the existence of a homestead on the property, and the length of time each cotenant resided at or took care of the property. Current law allows the sale only if the court finds that an actual partition of the land cannot be made without substantially injuring any of the interested parties. Makes conforming changes. Enacts new GS 46-22.1 providing that if the court determines the property cannot be partitioned in-kind, the court must allow the non-petitioning cotenants to purchase the petitioner's interest in the property before ordering a sale of the property. Requires non-petitioning cotenants who want to purchase the petitioner's interest to notify the court no later than 10 days before trial. If more than one non-petitioning cotenant wants to buy the petitioner's share, each person is entitled to purchase an equal portion of the property. Establishes means for determining the price of the petitioner's interest and allows the petitioner to object to the determined value. After the value of the interest is determined, the non-petitioning cotenants purchasing the interest have 45 days to pay the set price to the court. Provides that the statute does not apply when there is a written agreement for tenants-in-common or joint tenants management. Enacts new GS 46-22.2 prohibiting a court from assessing attorneys' fees against a non-petitioning cotenant who contests the partition or sale of the property or who hires an attorney to represent the cotenant's interest. Makes conforming change to GS 6-21(7).

Intro. by Bryant.

GS 6, 46

May 23, 2007

H 1527. PARTITION SALES OF REAL PROPERTY STUDY (NEW). Filed 4/16/07. House committee substitute makes the following changes to 1st edition. Deletes all provisions of the first edition and replaces it with *AN ACT TO STUDY THE IMPACT OF PARTITION SALES OF REAL PROPERTY ON THE ECONOMIC USE AND LOSS OF HEIR PROPERTY AND FARMLAND BY HEIRS IN NORTH CAROLINA*. Now creates an 18-member Partition Sales Study Committee (Committee) to conduct a study as title indicates. Provides criteria for appointment of members, the duties and responsibilities, and the operation of the Committee. Requires the Committee to submit a final report, including any legislative recommendations, to the 2008 Regular Session of the 2007 General Assembly by May 1, 2008. Directs that the Committee terminate on May 1, 2008, or when the final report is filed, whichever comes first. Directs the Legislative Services Commission to allocate funds for conducting the study from funds appropriated to the General Assembly.