



NORTH CAROLINA GENERAL ASSEMBLY
CONFERENCE REPORT
House Bill 578

H578-CRRC-46 [v.2]

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[YES] Title Change

[NO] For Committee Substitute

To: The President of the Senate
The Speaker of the House of Representatives

The conferees appointed to resolve the differences between the Senate and the House of Representatives on House Bill 578, A BILL TO BE ENTITLED AN ACT TO CLARIFY NOTICE REQUIRED TO PARTIES WHO MAY BE UNKNOWN OR UNLOCATABLE IN A PARTITION PROCEEDING; TO CODIFY THE CURRENT PRACTICE OF GRANTING OWNERS CREDIT FOR THEIR EXISTING INTEREST IN LAND WHEN BIDDING ON A PARTITION SALE; TO PERMIT A COURT TO ORDER AN INDEPENDENT APPRAISAL IF REQUESTED AND PAID FOR BY A PARTY TO THE PARTITION WHO CHALLENGES THE AMOUNT BID IN A PARTITION SALE; TO REVISE THE STANDARD FOR DETERMINING WHAT CONSTITUTES "SUBSTANTIAL INJURY" WITH REGARDS TO A PETITION FOR A SALE OF THE PROPERTY; AND TO PROVIDE FOR MEDIATION OF PARTITION DISPUTES, Senate Judiciary II Committee Substitute #2 Adopted 8/3/09, submit the following report:

The House and Senate agree to the following amendments to the Senate Judiciary II Committee Substitute, Senate Judiciary II Committee Substitute #2 Adopted 8/3/09, and the House concurs in the Senate Judiciary II Committee Substitute as amended:

On page 1, lines 8, by deleting the word "REVISE" and substituting "CLARIFY";

and on page 1, lines 28-34, and page 2, lines 1-14, by rewriting the lines to read:

"SECTION 2. G.S. 46-22 reads as rewritten:

'§ 46-22. Sale in lieu of partition.

(a) Subject to G.S. 46-22.1(b), the The court shall order a sale of the property described in the petition, or of any part, only if it finds, by a preponderance of the evidence, that an actual partition of the lands cannot be made without substantial injury to any of the interested parties-parties, after having considered evidence in favor of actual partition and evidence in favor of a sale presented by any of the interested parties.

(b) In determining whether an actual partition would cause "Substantial-"substantial injury" to any of the interested parties, the court shall consider the following:

- (1) Whether ~~means~~ the fair market value of each cotenant's share in an in-kind partition-actual partition of the property would be materially less than the share of amount each cotenant in the money equivalent that would be obtained-would receive from the sale of the whole, whole.
- (2) Whether and if an in-kind division-actual partition would result in material impairment of the-any cotenant's rights.



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(b1) The court, in its discretion, shall consider the remedy of owelty where such remedy can aid in making an actual partition occur without substantial injury to the parties.

(c) The court shall specifically find the facts make specific findings of fact and conclusions of law supporting an order of sale of the property.

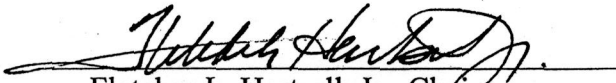
(d) The party seeking a sale of the property shall have the burden of proving substantial injury under the provisions of this section."

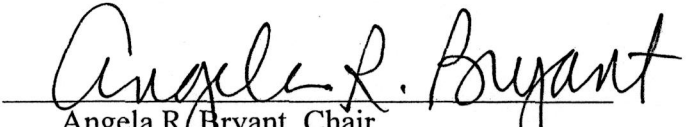
The conferees recommend that the Senate and the House of Representatives adopt this report.


Date Conferees approved report: August 7 2009.

Conferees for the Senate

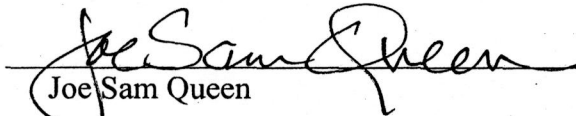
Conferees for the House of Representatives

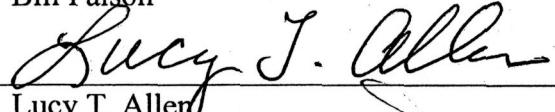

Fletcher L. Hartsell, Jr., Chair



Angela R. Bryant, Chair


Austin M. Allran

Bill Faison


Joe Sam Queen


Lucy T. Allen


Henry M. Michaux, Jr.

Pat B. Hurley


Larry D. Hall

House	Submitted	AUG 7 2009	placed on calendar	8/10/09		
House	ADOPTED	8/10/09	408-12V	Message Received	8/2/09	
	ADOPTED		(/)	Ordered Enrolled	8/10/09	

TITLE CHANGE upon adoption

ORDERED SENT TO GOVERNOR

Senate notified
Special Message

Special Message

Denise Weeks

mt
CA