

Uniform Partition of Heirs Property Act	North Carolina Law (Provisions similar to Uniform Act are highlighted)	Analysis of Substantive Differences
SECTION 1. SHORT TITLE. This [act] may be cited as the Uniform Partition of Heirs Property Act.	None	
SECTION 2. DEFINITIONS. In this [act]: (1) “Ascendant” means an individual who precedes another individual in lineage, in the direct line of ascent from the other individual. (2) “Collateral” means an individual who is related to another individual under the law of intestate succession of this state but who is not the other individual’s ascendant or descendant. (3) “Descendant” means an individual who follows another individual in lineage, in the direct line of descent from the other individual. (4) “Determination of value” means a court order determining the fair market value of heirs property under Section 6 or 10 or adopting the valuation of the property agreed to by all cotenants. (5) “Heirs property” means real property held in tenancy in common which satisfies all of the following requirements as of the filing of a partition action: (A) there is no agreement in a record binding all the cotenants which governs the partition of the property; (B) one or more of the cotenants acquired title from a relative, whether living or deceased; and (C) Any of the following applies: (i) 20 percent or more of the interests are held by cotenants who are relatives; (ii) 20 percent or more of the interests are held by an	None	Chapter 46 of the General Statutes does not have a "definitions" section.

Uniform Partition of Heirs Property Act	North Carolina Law (Provisions similar to Uniform Act are highlighted)	Analysis of Substantive Differences
<p>individual who acquired title from a relative, whether living or deceased; or</p> <p>(iii) 20 percent or more of the cotenants are relatives.</p> <p>(6) “Partition by sale” means a court-ordered sale of the entire heirs property, whether by auction, sealed bids, or open-market sale conducted under Section 10.</p> <p>(7) “Partition in kind” means the division of heirs property into physically distinct and separately titled parcels.</p> <p>(8) “Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.</p> <p>(9) “Relative” means an ascendant, descendant, or collateral or an individual otherwise related to another individual by blood, marriage, adoption, or law of this state other than this [act].</p>		
<p>SECTION 3. APPLICABILITY; RELATION TO OTHER LAW.</p> <p>(a) This [act] applies to partition actions filed on or after [the effective date of this [act]].</p> <p>(b) In an action to partition real property under [insert reference to general partition statute] the court shall determine whether the property is heirs property. If the court determines that the property is heirs property, the property must be partitioned under this [act] unless all of the cotenants otherwise agree in a record.</p> <p>(c) This [act] supplements [insert reference to general partition statute] and, if an action is governed by this [act], replaces provisions of [insert reference to general partition statute] that are inconsistent with this [act].</p>	None	<p>The UHPA applies only to partitions of heirs property.</p> <p>Chapter 46 applies to all partitions.</p>
<p>SECTION 4. SERVICE; NOTICE BY POSTING.</p> <p>(a) This [act] does not limit or affect the method by which</p>	<p>§ 46-6. Unknown or unlocatable parties; summons, notice, and representation.</p> <p>(a) If, upon the filing of a petition for partition, it be made</p>	<p>The UHPA imposes an additional requirement on a petitioner seeking to provide notice by publication; the</p>

Uniform Partition of Heirs Property Act	North Carolina Law (Provisions similar to Uniform Act are highlighted)	Analysis of Substantive Differences
<p>service of a [complaint] in a partition action may be made.</p> <p>(b) If the plaintiff in a partition action seeks [an order of] notice by publication and the court determines that the property may be heirs property, the plaintiff, not later than 10 days after the court's determination, shall post [and maintain while the action is pending] a conspicuous sign on the property that is the subject of the action. The sign must state that the action has commenced and identify the name and address of the court and the common designation by which the property is known. The court may require the plaintiff to publish on the sign the name of the plaintiff and the known defendants.</p>	<p>to appear to the court by affidavit or otherwise that there are any persons interested in the premises whose names are unknown to and cannot after due diligence be ascertained by the petitioner, the court shall order notices to be given to all such persons by a publication of the petition, or of the substance thereof, with the order of the court thereon, in one or more newspapers to be designated in the order. The notice by publication shall include a description of the property which includes the street address, if any, or other common designation for the property, if any, and may include the legal description of the property.</p> <p>(b) Before or after such general notice by publication if any person interested in the premises and entitled to notice fails to appear, the court shall appoint some disinterested person to represent the owner of any shares in the property to be divided, the ownership of which is unknown or unlocatable and unrepresented.</p>	<p>petitioner shall post a conspicuous sign on the property.</p> <p>Chapter 46 does not have this additional signage requirement; service by publication is done by newspaper.</p>
<p>SECTION 5. [COMMISSIONERS].</p> <p>If the court appoints [commissioners] pursuant to [insert reference to general partition statute], each [commissioner], in addition to the requirements and disqualifications applicable to [commissioners] in [insert reference to general partition statute], must be disinterested and impartial and not a party to or a participant in the action.</p>	<p>§ 46-7. Commissioners appointed.</p> <p>The superior court shall appoint three disinterested commissioners to divide and apportion such real estate, or so much thereof as the court may deem best, among the several tenants in common, or joint tenants. Provided, in cases where the land to be partitioned lies in more than one county, then the court may appoint such additional commissioners as it may deem necessary from counties where the land lies other than the county where the proceedings are instituted.</p> <p>§ 46-7.1. Compensation of commissioners.</p> <p>The clerk of the superior court shall fix the compensation of commissioners for the partition or division of lands according to the provisions of G.S. 1-408.</p> <p>§ 46-8. Oath of commissioners.</p> <p>The commissioners shall be sworn by a magistrate, the</p>	<p>The UHPA requires the commissioners to be "disinterested and impartial and not a party to or a participant in the action."</p> <p>Chapter 46 requires the commissioners to be "disinterested" and to take an oath "to do justice among the tenants in common in respect to such partition, according to their best skill and ability."</p>

Uniform Partition of Heirs Property Act	North Carolina Law (Provisions similar to Uniform Act are highlighted)	Analysis of Substantive Differences
	<p>sheriff or any deputy sheriff of the county, or any other person authorized to administer oaths, to do justice among the tenants in common in respect to such partition, according to their best skill and ability.</p> <p>§ 46-9. Delay or neglect of commissioner penalized.</p> <p>If, after accepting the trust, any of the commissioners unreasonably delay or neglect to execute the same, every such delinquent commissioner shall be liable for contempt and may be removed, and shall be further liable to a penalty of fifty dollars (\$50.00), to be recovered by the petitioner.</p>	
<p>SECTION 6. DETERMINATION OF VALUE.</p> <p>(a) Except as otherwise provided in subsections (b) and (c), if the court determines that the property that is the subject of a partition action is heirs property, the court shall determine the fair market value of the property by ordering an appraisal pursuant to subsection (d).</p> <p>(b) If all cotenants have agreed to the value of the property or to another method of valuation, the court shall adopt that value or the value produced by the agreed method of valuation.</p> <p>(c) If the court determines that the evidentiary value of an appraisal is outweighed by the cost of the appraisal, the court, after an evidentiary hearing, shall determine the fair market value of the property and send notice to the parties of the value.</p> <p>(d) If the court orders an appraisal, the court shall appoint a disinterested real estate appraiser licensed in this state to determine the fair market value of the property assuming sole ownership of the fee simple estate. On completion of the appraisal, the appraiser shall file a sworn or verified appraisal with the court.</p> <p>(e) If an appraisal is conducted pursuant to subsection (d), not later than 10 days after the appraisal is filed, the court shall send notice to each party with a known address, stating:</p>	<p>§ 46-28.1. Petition for revocation of confirmation order.</p> <p>(a) Notwithstanding G.S. 46-28 or any other provision of law, within 15 days of entry of the order confirming the partition sale or real property, any party to the partition proceeding or the purchaser may petition the court to revoke its order of confirmation and to order the withdrawal of the purchaser's offer to purchase the property upon the following grounds:</p> <ol style="list-style-type: none"> (1) In the case of a purchaser, a lien remains unsatisfied on the property to be conveyed. (2) In the case of any party to the partition proceeding: <ol style="list-style-type: none"> a. Notice of the partition was not served on the petitioner for revocation as required by Rule 4 of the Rules of Civil Procedure; or b. Notice of the sale was not mailed to the petitioner for revocation as required by G.S. 46-28(b); or c. The amount bid or price offered is inadequate and inequitable and will result in irreparable damage to the owners of the real property. <p>In no event shall the confirmation order become final or</p>	<p>The UHPHA generally requires that a court, before reaching the merits of the action, order a disinterested real estate appraiser to appraise the property. The court then will consider the appraisal, along with any other evidence of value, to determine the fair market value of the property.</p> <p>Chapter 46 allows a party to request the court to order a real estate appraiser to conduct an independent appraisal of the property in the event that a party petitions the court to revoke its order confirming the partition sale of the property and argues that the sale price is "inadequate and inequitable and will result in irreparable damage to the owners of the real property." The requesting party bears the cost of the appraisal.</p> <p>In sum, the UHPHA requires</p>

Uniform Partition of Heirs Property Act	North Carolina Law (Provisions similar to Uniform Act are highlighted)	Analysis of Substantive Differences
<p>(1) the appraised fair market value of the property;</p> <p>(2) that the appraisal is available at the clerk's office; and</p> <p>(3) that a party may file with the court an objection to the appraisal not later than 30 days after the notice is sent, stating the grounds for the objection.</p> <p>(f) If an appraisal is filed with the court pursuant to subsection (d), the court shall conduct a hearing to determine the fair market value of the property not sooner than 30 days after a copy of the notice of the appraisal is sent to each party under subsection (e), whether or not an objection to the appraisal is filed under subsection (e)(3). In addition to the court-ordered appraisal, the court may consider any other evidence of value offered by a party.</p> <p>(g) After a hearing under subsection (f), but before considering the merits of the partition action, the court shall determine the fair market value of the property and send notice to the parties of the value.</p>	<p>effective during the pendency of a petition under this section. No upset bid shall be permitted after the entry of the confirmation order.</p> <p>...</p> <p>(d1) In the case of a petition brought pursuant to sub-subdivision (a)(2)c. of this section, and when an independent appraisal of the property being sold has not been previously entered into evidence in the action, and upon the request of any party, the court may order an independent appraisal prepared by a real estate appraiser currently licensed by the North Carolina Appraisal Board and prepared in accordance with the Uniform Standards of Professional Appraisal Practice. The cost of an independent appraisal shall be borne by one or more of the parties requesting the appraisal in such proportions as they may agree. Before ruling on the petition brought pursuant to sub-subdivision (a)(2)c. of this section, the court may in its discretion require written evidence from the appraiser that the appraiser has been paid in full for the appraisal. If based on the appraisal and all of the evidence presented, the court finds the amount bid or price offered to be inadequate, inequitable, and resulting in irreparable damage to the owners, the court may revoke the order confirming the sale, order the withdrawal of the purchaser's high bid or offer, and order the return to such purchaser of any money or security tendered by the purchaser pursuant to the high bid or offer.</p> <p>....</p>	<p>an appraisal <i>ab initio</i>, whereas Chapter 46 allows a party to request the court to order an appraisal in challenging a partition sale after the fact.</p>
<p>SECTION 7. COTENANT BUYOUT.</p> <p>(a) If any cotenant requested partition by sale, after the determination of value under Section 6, the court shall send notice to the parties that any cotenant except a cotenant that requested partition by sale may buy all the interests of the cotenants that requested partition by sale.</p> <p>(b) Not later than 45 days after the notice is sent under subsection (a), any cotenant except a cotenant that requested partition by sale may give notice to the court that it elects to buy all the interests of the cotenants that requested partition by sale.</p>	<p>§ 46-28. Sale procedure.</p> <p>...</p> <p>(c) Any cotenant who enters the high bid or offer at any sale of one hundred percent (100%) of the undivided interests in any parcel of real property shall receive a credit for the undivided interest the cotenant already owns therein and shall receive a corresponding reduction in the amount of the total purchase price owed after deducting the costs and fees associated with the sale and apportioning the costs and fees associated with the sale in accordance with the orders of the court. The high bid or offer shall be for one hundred percent (100%) of the undivided interests in the parcel of real</p>	<p>The UHPA allows a respondent to buy out the petitioner's interest in an amount equal to the petitioner's fractional interest multiplied by the property's value determined under Section 6. The court also may allow a respondent to buy out non-appearing respondents' interests.</p>

Uniform Partition of Heirs Property Act	North Carolina Law (Provisions similar to Uniform Act are highlighted)	Analysis of Substantive Differences
<p>(c) The purchase price for each of the interests of a cotenant that requested partition by sale is the value of the entire parcel determined under Section 6 multiplied by the cotenant's fractional ownership of the entire parcel.</p> <p>(d) After expiration of the period in subsection (b), the following rules apply:</p> <ol style="list-style-type: none"> (1) If only one cotenant elects to buy all the interests of the cotenants that requested partition by sale, the court shall notify all the parties of that fact. (2) If more than one cotenant elects to buy all the interests of the cotenants that requested partition by sale, the court shall allocate the right to buy those interests among the electing cotenants based on each electing cotenant's existing fractional ownership of the entire parcel divided by the total existing fractional ownership of all cotenants electing to buy and send notice to all the parties of that fact and of the price to be paid by each electing cotenant. (3) If no cotenant elects to buy all the interests of the cotenants that requested partition by sale, the court shall send notice to all the parties of that fact and resolve the partition action under Section 8(a) and (b). <p>(e) If the court sends notice to the parties under subsection (d)(1) or (2), the court shall set a date, not sooner than 60 days after the date the notice was sent, by which electing cotenants must pay their apportioned price into the court. After this date, the following rules apply:</p> <ol style="list-style-type: none"> (1) If all electing cotenants timely pay their apportioned price into court, the court shall issue an order reallocating all the interests of the cotenants and disburse the amounts held by the court to the persons entitled to them. (2) If no electing cotenant timely pays its apportioned price, the court shall resolve the partition action under Section 8(a) and (b) as if the interests of the cotenants that requested 	<p>property sold, and the credit and reduction shall be applied at the time of the closing of the cotenant's purchase of the real property. When jointly making the high bid or offer at the sale, two or more cotenants may receive at the closing an aggregate credit and reduction in the amount of the total purchase price representing the total of such cotenants' undivided interests in the real property. Any credits and reductions allowed by this subsection shall be further adjusted to reflect any court-ordered adjustments to the share(s) of the net sale proceeds of each of the cotenants entering the high bid or offer, including, but not limited to, equitable adjustments to the share(s) of the net sales proceeds due to a court finding of the lack of contribution of one or more cotenants to the payment of expenses of the real property.</p>	<p>Chapter 46 allows any party to enter the high bid in a partition sale for 100% of the property and receive a credit for the party's preexisting interest in the property.</p> <p>Suppose the petitioner owns 5% of the property and a respondent owns 10% of the property. The UHPA allows a respondent to pay 5% of the property value to buy out the petitioner's interest. In contrast, Chapter 46 requires the respondent to pay 90% of their bid in order to retain the property.</p>

Uniform Partition of Heirs Property Act	North Carolina Law (Provisions similar to Uniform Act are highlighted)	Analysis of Substantive Differences
<p>partition by sale were not purchased.</p> <p>(3) If one or more but not all of the electing cotenants fail to pay their apportioned price on time, the court [, on motion,] shall give notice to the electing cotenants that paid their apportioned price of the interest remaining and the price for all that interest.</p> <p>(f) Not later than 20 days after the court gives notice pursuant to subsection (e)(3), any cotenant that paid may elect to purchase all of the remaining interest by paying the entire price into the court. After the 20-day period, the following rules apply:</p> <p>(1) If only one cotenant pays the entire price for the remaining interest, the court shall issue an order reallocating the remaining interest to that cotenant. The court shall issue promptly an order reallocating the interests of all of the cotenants and disburse the amounts held by it to the persons entitled to them.</p> <p>(2) If no cotenant pays the entire price for the remaining interest, the court shall resolve the partition action under Section 8(a) and (b) as if the interests of the cotenants that requested partition by sale were not purchased.</p> <p>(3) If more than one cotenant pays the entire price for the remaining interest, the court shall reapportion the remaining interest among those paying cotenants, based on each paying cotenant's original fractional ownership of the entire parcel divided by the total original fractional ownership of all cotenants that paid the entire price for the remaining interest. The court shall issue promptly an order reallocating all of the cotenants' interests, disburse the amounts held by it to the persons entitled to them, and promptly refund any excess payment held by the court.</p> <p>(g) Not later than 45 days after the court sends notice to the parties pursuant to subsection (a), any cotenant entitled to buy an interest under this section may request the court to authorize the sale as part of the pending action of the interests of cotenants</p>		

Uniform Partition of Heirs Property Act	North Carolina Law (Provisions similar to Uniform Act are highlighted)	Analysis of Substantive Differences
<p>named as defendants and served with the complaint but that did not appear in the action.</p> <p>(h) If the court receives a timely request under subsection (g), the court, after hearing, may deny the request or authorize the requested additional sale on such terms as the court determines are fair and reasonable, subject to the following limitations:</p> <p>(1) a sale authorized under this subsection may occur only after the purchase prices for all interests subject to sale under subsections (a) through (f) have been paid into court and those interests have been reallocated among the cotenants as provided in those subsections; and</p> <p>(2) the purchase price for the interest of a nonappearing cotenant is based on the court's determination of value under Section 6.</p>		
<p>SECTION 8. PARTITION ALTERNATIVES.</p> <p>(a) If all the interests of all cotenants that requested partition by sale are not purchased by other cotenants pursuant to Section 7, or if after conclusion of the buyout under Section 7, a cotenant remains that has requested partition in kind, the court shall order partition in kind unless the court, after consideration of the factors listed in Section 9, finds that partition in kind will result in [great] [manifest] prejudice to the cotenants as a group. In considering whether to order partition in kind, the court shall approve a request by two or more parties to have their individual interests aggregated.</p> <p>(b) If the court does not order partition in kind under subsection (a), the court shall order partition by sale pursuant to Section 10 or, if no cotenant requested partition by sale, the court shall dismiss the action.</p> <p>(c) If the court orders partition in kind pursuant to subsection (a), the court may require that one or more cotenants pay one or more other cotenants amounts so that the payments, taken together with the value of the in-kind distributions to the cotenants, will make the partition in kind just and proportionate in value to the</p>	<p>§ 46-22. Sale in lieu of partition.</p> <p>(a) Subject to G.S. 46-22.1(b), 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, after having considered evidence in favor of actual partition and evidence in favor of a sale presented by any of the interested parties. ...</p> <p>(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.</p> <p>(c) The court shall make specific findings of fact and conclusions of law supporting an order of sale of the property.</p> <p>(d) The party seeking a sale of the property shall have the burden of proving substantial injury under the provisions of this section.</p>	<p>The UHPA requires a court to order a partition in kind unless it would result in "great prejudice" or "manifest prejudice" to the parties "as a group."</p> <p>Chapter 46 requires a court to order a partition in kind unless it would result in "substantial injury to any of the interested parties[.]"</p> <p>Both the UHPA and Chapter 46 allow a court to consider the remedy of owelty, or requiring one party to pay another party a sum of money in order to achieve an equitable partition in kind.</p> <p>Both the UHPA and Chapter 46 allow a court to allocate a</p>

Uniform Partition of Heirs Property Act	North Carolina Law (Provisions similar to Uniform Act are highlighted)	Analysis of Substantive Differences
<p>fractional interests held.</p> <p>(d) If the court orders partition in kind, the court shall allocate to the cotenants that are unknown, unlocatable, or the subject of a default [entry][judgment], if their interests were not bought out pursuant to Section 7, a part of the property representing the combined interests of these cotenants as determined by the court [and this part of the property shall remain undivided].</p>	<p>§ 46-13. Partition where shareowners unknown or title disputed; allotment of shares in common.</p> <p>If there are any of the tenants in common, or joint tenants, whose names are not known or whose title is in dispute, the share or shares of such persons shall be set off together as one parcel. If, in any partition proceeding, two or more appear as defendants claiming the same share of the premises to be divided, or if any part of the share claimed by the petitioner is disputed by any defendant or defendants, it shall not be necessary to decide on their respective claims before the court shall order the partition or sale to be made, but the partition or sale shall be made, and the controversy between the contesting parties may be afterwards decided either in the same or an independent proceeding. If two or more tenants in common, or joint tenants, by petition or answer, request it, the commissioners may, by order of the court, allot their several shares to them in common, as one parcel, provided such division shall not be injurious or detrimental to any cotenant or joint tenant.</p>	<p>part of the property to unknown cotenants.</p>
<p>SECTION 9. CONSIDERATIONS FOR PARTITION IN KIND.</p> <p>(a) In determining under Section 8(a) whether partition in kind would result in [great][manifest] prejudice to the cotenants as a group, the court shall consider the following:</p> <ol style="list-style-type: none"> (1) whether the heirs property practicably can be divided among the cotenants; (2) whether partition in kind would apportion the property in such a way that the aggregate fair market value of the parcels resulting from the division would be materially less than the value of the property if it were sold as a whole, taking into account the condition under which a court-ordered sale likely would occur; (3) evidence of the collective duration of ownership or possession of the property by a cotenant and one or more predecessors in title or predecessors in possession to the 	<p>§ 46-22. Sale in lieu of partition.</p> <p>...</p> <p>(b) In determining whether an actual partition would cause "substantial injury" to any of the interested parties, the court shall consider the following:</p> <ol style="list-style-type: none"> (1) Whether the fair market value of each cotenant's share in an actual partition of the property would be materially less than the amount each cotenant would receive from the sale of the whole. (2) Whether an actual partition would result in material impairment of any cotenant's rights. <p>....</p> <p>"[T]he trial court must consider evidence of fair market value in determining whether a substantial injury would result from a partition in-kind." <i>Lyons-Hart v. Hart</i>, 205 N.C. App. 232, 238, 695 S.E.2d 818, 822 (2010).</p>	<p>The UHPA requires a court to consider both economic and noneconomic factors in determining whether a partition in kind would result in "great prejudice" or "manifest prejudice."</p> <p>Chapter 46 does not include any noneconomic factors. The N.C. Court of Appeals has focused entirely on factor (1). For a helpful discussion of arguments for and against including noneconomic factors, see Lawrence Anderson Moye IV, <i>Is It All About the Money? Considering a Multi-Factor Test for Determining the</i></p>

Uniform Partition of Heirs Property Act	North Carolina Law (Provisions similar to Uniform Act are highlighted)	Analysis of Substantive Differences
<p>cotenant who are or were relatives of the cotenant or each other;</p> <p>(4) a cotenant's sentimental attachment to the property, including any attachment arising because the property has ancestral or other unique or special value to the cotenant;</p> <p>(5) the lawful use being made of the property by a cotenant and the degree to which the cotenant would be harmed if the cotenant could not continue the same use of the property;</p> <p>(6) the degree to which the cotenants have contributed their pro rata share of the property taxes, insurance, and other expenses associated with maintaining ownership of the property or have contributed to the physical improvement, maintenance, or upkeep of the property; and</p> <p>(7) any other relevant factor.</p> <p>(b) The court may not consider any one factor in subsection (a) to be dispositive without weighing the totality of all relevant factors and circumstances.</p>		<p><i>Appropriateness of Forced Partition Sales in North Carolina</i>, 33 Campbell L. Rev. 411 (2011).</p>
<p>SECTION 10. OPEN-MARKET SALE, SEALED BIDS, OR AUCTION.</p> <p>(a) If the court orders a sale of heirs property, the sale must be an open-market sale unless the court finds that a sale by sealed bids or an auction would be more economically advantageous and in the best interest of the cotenants as a group.</p> <p>(b) If the court orders an open-market sale and the parties, not later than 10 days after the entry of the order, agree on a real estate broker licensed in this state to offer the property for sale, the court shall appoint the broker and establish a reasonable commission. If the parties do not agree on a broker, the court shall appoint a disinterested real estate broker licensed in this state to offer the property for sale and shall establish a reasonable commission. The broker shall offer the property for sale in a commercially reasonable manner at a price no lower than the determination of value and on the terms and conditions</p>	<p>§ 46-28. Sale procedure.</p> <p>(a) The procedure for a partition sale shall be the same as is provided in Article 29A of Chapter 1 of the General Statutes, except as provided herein.</p> <p>(b) The commissioners shall certify to the court that at least 20 days prior to sale a copy of the notice of sale was sent by first class mail to the last known address of all petitioners and respondents who previously were served by personal delivery or by registered or certified mail. The commissioners shall also certify to the court that at least ten days prior to any resale pursuant to G.S. 46-28.1(e) a copy of the notice of resale was sent by first class mail to the last known address of all parties to the partition proceeding who have filed a written request with the court that they be given notice of any resale. An affidavit from the commissioners that copies of the notice of sale and resale were mailed to all</p>	<p>The UHPA generally requires a court to order an open-market sale; the court shall appoint a real estate broker who shall initially offer the property at a price no lower than the value determined under Section 6. If the open-market sale proves to be unsuccessful, the court may order a sale by sealed bid or by auction.</p> <p>Chapter 46 references Article 29A of Chapter 1. In that article, a court has the discretion to order a public sale or a private sale. In the case of</p>

Uniform Partition of Heirs Property Act	North Carolina Law (Provisions similar to Uniform Act are highlighted)	Analysis of Substantive Differences
<p>established by the court.</p> <p>(c) If the broker appointed under subsection (b) obtains within a reasonable time an offer to purchase the property for at least the determination of value:</p> <p style="padding-left: 40px;">(1) the broker shall comply with the reporting requirements in Section 11; and</p> <p style="padding-left: 40px;">(2) the sale may be completed in accordance with state law other than this [act].</p> <p>(d) If the broker appointed under subsection (b) does not obtain within a reasonable time an offer to purchase the property for at least the determination of value, the court, after hearing, may:</p> <p style="padding-left: 40px;">(1) approve the highest outstanding offer, if any;</p> <p style="padding-left: 40px;">(2) redetermine the value of the property and order that the property continue to be offered for an additional time; or</p> <p style="padding-left: 40px;">(3) order that the property be sold by sealed bids or at an auction.</p> <p>(e) If the court orders a sale by sealed bids or an auction, the court shall set terms and conditions of the sale. If the court orders an auction, the auction must be conducted under [insert reference to general partition statute or, if there is none, insert reference to foreclosure sale].</p> <p>(f) If a purchaser is entitled to a share of the proceeds of the sale, the purchaser is entitled to a credit against the price in an amount equal to the purchaser's share of the proceeds.</p>	<p>parties entitled to notice in accordance with this section shall satisfy the certification requirement and shall also be deemed prima facie true. If after hearing it is proven that a party seeking to revoke the order of confirmation of a sale or subsequent resale was mailed notice as required by this section prior to the date of the sale or subsequent resale, then that party shall not prevail under the provisions of G.S. 46-28.1(a)(2)a. and b.</p> <p>(c) Any cotenant who enters the high bid or offer at any sale of one hundred percent (100%) of the undivided interests in any parcel of real property shall receive a credit for the undivided interest the cotenant already owns therein and shall receive a corresponding reduction in the amount of the total purchase price owed after deducting the costs and fees associated with the sale and apportioning the costs and fees associated with the sale in accordance with the orders of the court. The high bid or offer shall be for one hundred percent (100%) of the undivided interests in the parcel of real property sold, and the credit and reduction shall be applied at the time of the closing of the cotenant's purchase of the real property. When jointly making the high bid or offer at the sale, two or more cotenants may receive at the closing an aggregate credit and reduction in the amount of the total purchase price representing the total of such cotenants' undivided interests in the real property. Any credits and reductions allowed by this subsection shall be further adjusted to reflect any court-ordered adjustments to the share(s) of the net sale proceeds of each of the cotenants entering the high bid or offer, including, but not limited to, equitable adjustments to the share(s) of the net sales proceeds due to a court finding of the lack of contribution of one or more cotenants to the payment of expenses of the real property.</p> <p>§ 1-339.3A. Judge or clerk may order public or private sale.</p> <p>The judge or clerk of court having jurisdiction has authority in his discretion to determine whether a sale of either real or</p>	<p>timber only, a court has the discretion to order a public sale by auction or a public sale by sealed bid. Most notably, N.C. current law does not have a prioritized statutory open-market sale procedure for partition sales.</p> <p>Both the UHPHA and Chapter 46 allow a party who purchases the property to receive a credit for the party's preexisting interest in the property.</p>

Uniform Partition of Heirs Property Act	North Carolina Law (Provisions similar to Uniform Act are highlighted)	Analysis of Substantive Differences
	<p>personal property shall be a public or private sale and whether a public sale of timber shall be by auction or by sealed bid. . . .</p> <p>§ 1-339.13. Public sale; order of sale.</p> <p>(a) Whenever a public sale is ordered, the order of sale shall . . .</p> <p>(2) Direct that the property be sold at public auction to the highest bidder or, in the case of a sale of timber, direct that the timber be sold to the highest bidder and specify whether the sale is to be by public auction or by sealed bid;</p> <p>....</p>	
<p>SECTION 11. REPORT OF OPEN-MARKET SALE.</p> <p>(a) Unless required to do so within a shorter time by [insert reference to general partition statute], a broker appointed under Section 10(b) to offer heirs property for open-market sale shall file a report with the court not later than seven days after receiving an offer to purchase the property for at least the value determined under Section 6 or 10.</p> <p>(b) The report required by subsection (a) must contain the following information:</p> <ul style="list-style-type: none"> (1) a description of the property to be sold to each buyer; (2) the name of each buyer; (3) the proposed purchase price; (4) the terms and conditions of the proposed sale, including the terms of any owner financing; (5) the amounts to be paid to lienholders; (6) a statement of contractual or other arrangements or 	<p>None</p>	<p>The UPHPA requires the real estate broker, upon receiving an offer for at least the value determined under Section 6 or 10, to file a report describing the material facts of the offer.</p>

Uniform Partition of Heirs Property Act	North Carolina Law (Provisions similar to Uniform Act are highlighted)	Analysis of Substantive Differences
<p>conditions of the broker's commission; and</p> <p>(7) other material facts relevant to the sale.</p>		
<p>SECTION 12. UNIFORMITY OF APPLICATION AND CONSTRUCTION.</p> <p>In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.</p>	None	
<p>SECTION 13. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.</p> <p>This [act] modifies, limits, and supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001 et seq., but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Section 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Section 7003(b).</p>	None	
<p>SECTION 14. EFFECTIVE DATE.</p> <p>This [act] takes effect . . .</p>	None	