

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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SENATE BILL 963

Short Title: Partition Sales of Real Property.

(Public)

Sponsors: Senators Weinstein; Dannelly, Kinnaird, and Malone.

Referred to: Judiciary II.

March 24, 2005

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR THE SALE OF A COTENANT'S INTEREST IN REAL
PROPERTY IN LIEU OF SALE BY PARTITION.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 46 of the General Statutes is amended by adding a
new section to read:

"§ 46-22.1. Sale of cotenant's interest in lieu of sale by partition.

(a) Upon the filing of a petition for partition of real property owned by joint tenants or tenants in common, the court shall provide for the purchase of the interests of the joint tenants or tenants in common seeking the sale of the property described in the petition pursuant to G.S. 46-22 to the nonpetitioning joint tenants or tenants in common. Provided that the nonpetitioning joint tenants or tenants in common interested in purchasing those interests shall notify the court of that interest not later than 10 days prior to the date set for trial of the case and shall be allowed to purchase whether default has been entered against them or not.

(b) In the circumstances as described in subsection (a) of this section, and in the event the parties cannot reach agreement as to the price, the value of the interest or interests to be sold shall be determined by one or more competent real estate appraisers or commissioners, as the court shall approve, appointed by the court for the purpose of determining that value. The appraisers or commissioners appointed under this section shall make their report in writing to the court within 30 days after their appointment.

(c) After the report of the appraisers or commissioners, the nonpetitioning joint tenants or tenants in common seeking to purchase the interests of those filing the petition for partition shall have 45 days to pay into the court the price set as the value of the interests to be purchased. Upon payment and approval of price by the court, the clerk shall execute and deliver or cause to be executed and delivered the proper instruments transferring title to the purchasers.

1 (d) Should the nonpetitioning joint tenants or tenants in common fail to pay the
2 purchase price as provided in subsection (c) of this section, the court shall proceed
3 according to its traditional practices in the cases described in G.S. 46-22.

4 (e) The costs of the appraisers or commissioners pursuant to this section shall be
5 taxed as a part of the court costs to those seeking to or purchasing the interests of the
6 joint tenants or tenants in common petitioning to sale their interest in the property
7 described in the petition."

8 **SECTION 2.** This act becomes effective October 1, 2005.