

1 State of Arkansas
2 89th General Assembly
3 Regular Session, 2013
4

A Bill

SENATE BILL 1048

5 By: Senator J. Hutchinson
6

For An Act To Be Entitled

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

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14 TO REGULATE PARTITION SALES; TO PERMIT
15 NEGOTIATED SALES IN PARTITION ACTIONS;
16 AND TO DECLARE AN EMERGENCY.
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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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21 SECTION 1. DO NOT CODIFY. Findings and intent.

22 (a) The General Assembly finds that:

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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8 **APPROVED: 04/12/2013**
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