

State of Arkansas

76th General Assembly

Regular Session, 1987

HOUSE BILL 1739

By: Representatives McGinnis, Cunningham and I. Brown

"AN ACT TO PROVIDE THAT WHEN A PARCEL OF LAND IS OWNED BY MORE THAN ONE PERSON AND ONE OR MORE OF THOSE PERSONS PETITIONS THE COURT TO PARTITION THE LAND, IF THE PETITIONER AND THE OTHER OWNERS ARE RELATED WITHIN THE FOURTH DEGREE OF CONSANGUINITY OR IF THE PETITIONER'S GRANTOR IS RELATED TO THE OTHER OWNERS WITHIN THE FOURTH DEGREE OF CONSANGUINITY, THE OTHER OWNERS SHALL BE AFFORDED AN OPPORTUNITY TO PURCHASE THE PETITIONER'S INTEREST PRIOR TO THE COURT ORDERED DIVISION OR SALE OF THE LAND; AND FOR OTHER PURPOSES."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Upon the filing of any petition for the division of land pursuant to Ark. Stat. Ann. §34-1801 et seq., and upon a finding by the court that the owners are related within the fourth degree of consanguinity or all owners other than the petitioner are related to the petitioner's grantor within the fourth degree of consanguinity, and the land could not or should not be divided and orders the land to be sold, the court shall permit the remaining joint owners or tenants in common that did not petition for the sale and that are related within the fourth degree of consanguinity to the person petitioning the court or within the fourth degree of consanguinity to the person from whom the petitioner derived title to the land, to purchase the interest of the petitioner prior to the court ordered division or sale. In addition, the joint owners or tenants in common interested in purchasing such interests shall notify the court of same not later than ten (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.

SECTION 2. In such circumstances as described in Section 1, and in the

event the parties cannot reach an agreement as to the price, the price to be paid by the remaining landowners for the petitioner's interest shall be determined as follows:

(a) If the petitioner's interest in the land was purchased within two (2) years prior to filing the petition the value of his interest is to be the same as the purchase price or the reasonable market value of his/her interest in the land, whichever is less.

(b) If the interest in the land was purchased or otherwise acquired more than two (2) years prior to the date of petition, the price will be the reasonable market value of the interest in the land.

SECTION 3. The reasonable market 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 for such purpose by the court. The appraisers or commissioners appointed under this Section shall make their report in writing to the court within thirty (30) days after their appointment.

SECTION 4. After the report of the appraisers or commissioners is filed with the court, the tenants in common or joint owners seeking to purchase the interests of those filing the petition shall have ninety (90) days to pay into the court the price set as the value of the fractional interest to be purchased. Upon such payment and approval of same by the court, the clerk shall execute and deliver or cause to be executed and delivered the proper instruments transferring title to the purchasers.

SECTION 5. Should the joint owners or tenants in common fail to pay the purchase price as provided in Section 4, the court shall proceed according to its traditional practices in such cases as provided by law.

SECTION 6. The costs of the appraisers or commissioners shall be taxed as a part of the cost of court to those seeking to or purchasing the interests.

SECTION 7. All laws or parts of laws in conflict with this Act are hereby repealed.

SECTION 8. It is hereby found and determined by the General Assembly that the present partition laws result in the needless loss of heir property and family farms and that such a loss is detrimental to the well-being of Arkansas' agrarian community. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.

