

SENATE BILL 92

N1, N2

(PRE-FILED)

2lr0801
CF 2lr0783

By: **Senator Augustine**

Requested: October 18, 2021

Introduced and read first time: January 12, 2022

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Uniform Partition of Heirs Property Act**

3 FOR the purpose of requiring the court in an action to partition real property to determine
4 whether the property is heirs property for the purpose of partition of the property
5 among certain cotenants and if so, to determine the market value of the property
6 unless the court makes certain determinations; establishing procedures for the
7 purchase of interests in heirs property by cotenants, for the partition in kind of heirs
8 property among cotenants, and for the partition by sale of heirs property on the open
9 market by a real estate broker licensed in this State; and generally relating to the
10 partition of heirs property.

11 BY repealing and reenacting, with amendments,
12 Article – Estates and Trusts
13 Section 9–107
14 Annotated Code of Maryland
15 (2017 Replacement Volume and 2021 Supplement)

16 BY repealing and reenacting, with amendments,
17 Article – Real Property
18 Section 14–107
19 Annotated Code of Maryland
20 (2015 Replacement Volume and 2021 Supplement)

21 BY adding to
22 Article – Real Property
23 Section 14–701 through 14–713 to be under the new subtitle “Subtitle 7. Maryland
24 Uniform Partition of Heirs Property Act”
25 Annotated Code of Maryland
26 (2015 Replacement Volume and 2021 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
2 That the Laws of Maryland read as follows:

3 **Article – Estates and Trusts**

4 9–107.

5 (a) (1) When two or more heirs or legatees are entitled to distribution of
6 undivided interests in property of the estate, the personal representative or one or more of
7 the heirs or legatees may petition the court before the formal or informal closing of the
8 estate, to make partition.

9 (2) After notice to the interested heirs or legatees **AND SUBJECT TO THE**
10 **REQUIREMENTS OF TITLE 14, SUBTITLE 7 OF THE REAL PROPERTY ARTICLE**, the
11 court shall partition the property in the same manner as provided by law for civil actions
12 of partition.

13 (b) The court may direct the personal representative to sell property which cannot
14 be partitioned without prejudice to the owners and cannot conveniently be allotted to one
15 party.

16 **Article – Real Property**

17 14–107.

18 (a) (1) **[A] SUBJECT TO THE REQUIREMENTS OF SUBTITLE 7 OF THIS**
19 **TITLE**, A circuit court may decree a partition of any property, either legal or equitable, on
20 the bill or petition of any joint tenant, tenant in common, parcener, or concurrent owner,
21 whether claiming by descent or purchase.

22 (2) If **[it appears that]** the property cannot be divided without loss or injury
23 to the parties **[interested]**, the court may decree its sale and divide the money resulting
24 from the sale among the parties according to their respective rights.

25 (3) The right to a partition or sale includes the right to a partition or sale
26 of any separate lot or tract of property, and the bill or petition need not pray for a partition
27 of all the lots or tracts.

28 (b) This section applies regardless of whether any party, plaintiff, or defendant is
29 a minor, disabled, or a nonresident.

30 (c) (1) A sale and deed made **[pursuant to] UNDER** an order of the court in the
31 exercise of the power provided in this section is good and sufficient at law to transfer
32 property of the person.

1 **(2)** A deed executed [in exercise of the above power provided in] **UNDER**
2 this section shall be executed by the person the court appoints for the purpose.

3 **(d) (1)** If any bill or petition is filed under the provisions of this section for the
4 sale of property, any person holding a mortgage, other encumbrance on the property, or an
5 undivided interest in the property may be made a party to the bill, and the property shall
6 be sold free and clear of the mortgage or other encumbrance. [However]

7 **(2) NOTWITHSTANDING THE REQUIREMENTS OF PARAGRAPH (1) OF**
8 **THIS SUBSECTION**, the rights of a lienor shall be protected in the distribution of the
9 proceeds of the sale.

10 **SUBTITLE 7. MARYLAND UNIFORM PARTITION OF HEIRS PROPERTY ACT.**

11 **14-701.**

12 **(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**
13 **INDICATED.**

14 **(B) “ASCENDANT” MEANS AN INDIVIDUAL WHO PRECEDES ANOTHER**
15 **INDIVIDUAL IN LINEAGE, IN THE DIRECT LINE OF ASCENT FROM THE OTHER**
16 **INDIVIDUAL.**

17 **(C) “COLLATERAL” MEANS AN INDIVIDUAL WHO IS RELATED TO ANOTHER**
18 **INDIVIDUAL UNDER THE LAW OF INTTESTATE SUCCESSION OF THIS STATE BUT WHO**
19 **IS NOT THE OTHER INDIVIDUAL’S ASCENDANT OR DESCENDANT.**

20 **(D) “DESCENDANT” MEANS AN INDIVIDUAL WHO FOLLOWS ANOTHER**
21 **INDIVIDUAL IN LINEAGE, IN THE DIRECT LINE OF DESCENT FROM THE OTHER**
22 **INDIVIDUAL.**

23 **(E) “DETERMINATION OF VALUE” MEANS A COURT ORDER DETERMINING**
24 **THE FAIR MARKET VALUE OF HEIRS PROPERTY UNDER § 14-705 OR § 14-709 OF THIS**
25 **SUBTITLE OR ADOPTING THE VALUATION OF THE PROPERTY AGREED TO BY ALL**
26 **COTENANTS.**

27 **(F) “HEIRS PROPERTY” MEANS REAL PROPERTY HELD IN TENANCY IN**
28 **COMMON THAT SATISFIES THE FOLLOWING REQUIREMENTS AS OF THE FILING OF A**
29 **PARTITION ACTION:**

30 **(1) THERE IS NO AGREEMENT IN A RECORD BINDING ALL THE**
31 **COTENANTS THAT GOVERNS THE PARTITION OF THE PROPERTY;**

1 **(2) ONE OR MORE OF THE COTENANTS ACQUIRED TITLE FROM A**
2 **RELATIVE, WHETHER LIVING OR DECEASED; AND**

3 **(3) ANY OF THE FOLLOWING APPLIES:**

4 **(I) 20% OR MORE OF THE INTERESTS ARE HELD BY COTENANTS**
5 **WHO ARE RELATIVES;**

6 **(II) 20% OR MORE OF THE INTERESTS ARE HELD BY AN**
7 **INDIVIDUAL WHO ACQUIRED TITLE FROM A RELATIVE, WHETHER LIVING OR**
8 **DECEASED; OR**

9 **(III) 20% OR MORE OF THE COTENANTS ARE RELATIVES.**

10 **(G) “PARTITION BY SALE” MEANS A COURT-ORDERED SALE OF THE ENTIRE**
11 **HEIRS PROPERTY, WHETHER BY AUCTION, SEALED BIDS, OR OPEN-MARKET SALE**
12 **CONDUCTED UNDER § 14-709 OF THIS SUBTITLE.**

13 **(H) “PARTITION IN KIND” MEANS THE DIVISION OF HEIRS PROPERTY INTO**
14 **PHYSICALLY DISTINCT AND SEPARATELY TITLED PARCELS.**

15 **(I) “RECORD” MEANS INFORMATION THAT IS INSCRIBED ON A TANGIBLE**
16 **MEDIUM OR THAT IS STORED IN AN ELECTRONIC OR OTHER MEDIUM AND IS**
17 **RETRIEVABLE IN PERCEIVABLE FORM.**

18 **(J) “RELATIVE” MEANS AN ASCENDANT, A DESCENDANT, OR A COLLATERAL**
19 **OR AN INDIVIDUAL OTHERWISE RELATED TO ANOTHER INDIVIDUAL BY BLOOD,**
20 **MARRIAGE, ADOPTION, OR LAW OF THIS STATE OTHER THAN THIS SUBTITLE.**

21 **14-702.**

22 **(A) (1) IN AN ACTION TO PARTITION REAL PROPERTY UNDER § 14-107 OF**
23 **THIS TITLE, THE COURT SHALL DETERMINE WHETHER THE PROPERTY IS HEIRS**
24 **PROPERTY.**

25 **(2) IF THE COURT DETERMINES THAT THE PROPERTY IS HEIRS**
26 **PROPERTY, THE PROPERTY SHALL BE PARTITIONED UNDER THIS SUBTITLE UNLESS**
27 **ALL OF THE COTENANTS AGREE OTHERWISE IN A RECORD.**

28 **(B) THIS SUBTITLE SUPPLEMENTS § 14-107 OF THIS TITLE AND, IF AN**
29 **ACTION IS GOVERNED BY THIS SUBTITLE, REPLACES PROVISIONS OF § 14-107 OF**
30 **THIS TITLE THAT ARE INCONSISTENT WITH THIS SUBTITLE.**

1 14-703.

2 (A) THIS SUBTITLE DOES NOT LIMIT OR AFFECT THE METHOD BY WHICH
3 SERVICE OF A COMPLAINT IN A PARTITION ACTION MAY BE MADE.

4 (B) (1) IF THE PLAINTIFF IN A PARTITION ACTION SEEKS NOTICE BY
5 PUBLICATION AND THE COURT DETERMINES THAT THE PROPERTY MAY BE HEIRS
6 PROPERTY, THE PLAINTIFF, NOT LATER THAN 10 DAYS AFTER THE COURT'S
7 DETERMINATION, SHALL POST AND MAINTAIN WHILE THE ACTION IS PENDING A
8 CONSPICUOUS SIGN ON THE PROPERTY THAT IS THE SUBJECT OF THE ACTION.

9 (2) THE SIGN SHALL STATE THAT THE ACTION HAS COMMENCED AND
10 IDENTIFY THE NAME AND ADDRESS OF THE COURT AND THE COMMON DESIGNATION
11 BY WHICH THE PROPERTY IS KNOWN.

12 (3) THE COURT MAY REQUIRE THE PLAINTIFF TO PUBLISH ON THE
13 SIGN THE NAME OF THE PLAINTIFF AND THE KNOWN DEFENDANTS.

14 14-704.

15 IF THE COURT APPOINTS COMMISSIONERS UNDER THE MARYLAND RULES,
16 EACH COMMISSIONER, IN ADDITION TO THE REQUIREMENTS AND
17 DISQUALIFICATIONS APPLICABLE TO COMMISSIONERS UNDER THE MARYLAND
18 RULES, MUST BE DISINTERESTED AND IMPARTIAL AND NOT A PARTY TO OR A
19 PARTICIPANT IN THE ACTION.

20 14-705.

21 (A) EXCEPT AS PROVIDED IN SUBSECTIONS (B) AND (C) OF THIS SECTION, IF
22 THE COURT DETERMINES THAT THE PROPERTY THAT IS THE SUBJECT OF A
23 PARTITION ACTION IS HEIRS PROPERTY, THE COURT SHALL DETERMINE THE FAIR
24 MARKET VALUE OF THE PROPERTY BY ORDERING AN APPRAISAL IN ACCORDANCE
25 WITH SUBSECTION (D) OF THIS SECTION.

26 (B) IF ALL COTENANTS HAVE AGREED TO THE VALUE OF THE PROPERTY OR
27 TO ANOTHER METHOD OF VALUATION, THE COURT SHALL ADOPT THAT VALUE OR
28 THE VALUE PRODUCED BY THE AGREED METHOD OF VALUATION.

29 (C) IF THE COURT DETERMINES THAT THE EVIDENTIARY VALUE OF AN
30 APPRAISAL IS OUTWEIGHED BY THE COST OF THE APPRAISAL, THE COURT, AFTER
31 AN EVIDENTIARY HEARING, SHALL DETERMINE THE FAIR MARKET VALUE OF THE
32 PROPERTY AND SEND NOTICE TO THE PARTIES OF THE VALUE.

1 **(D) (1) IF THE COURT ORDERS AN APPRAISAL, THE COURT SHALL**
2 **APPOINT A DISINTERESTED REAL ESTATE APPRAISER LICENSED IN THE STATE TO**
3 **DETERMINE THE FAIR MARKET VALUE OF THE PROPERTY ASSUMING SOLE**
4 **OWNERSHIP OF THE FEE SIMPLE ESTATE.**

5 **(2) ON COMPLETION OF THE APPRAISAL, THE APPRAISER SHALL FILE**
6 **A SWORN OR VERIFIED APPRAISAL WITH THE COURT.**

7 **(E) IF AN APPRAISAL IS CONDUCTED UNDER SUBSECTION (D) OF THIS**
8 **SECTION, NOT LATER THAN 10 DAYS AFTER THE APPRAISAL IS FILED, THE COURT**
9 **SHALL SEND NOTICE TO EACH PARTY WITH A KNOWN ADDRESS, STATING:**

10 **(1) THE APPRAISED FAIR MARKET VALUE OF THE PROPERTY;**

11 **(2) THAT THE APPRAISAL IS AVAILABLE AT THE OFFICE OF THE**
12 **CLERK; AND**

13 **(3) THAT A PARTY MAY FILE WITH THE COURT AN OBJECTION TO THE**
14 **APPRAISAL NOT LATER THAN 30 DAYS AFTER THE NOTICE IS SENT, STATING THE**
15 **GROUND FOR THE OBJECTION.**

16 **(F) (1) IF AN APPRAISAL IS FILED WITH THE COURT UNDER SUBSECTION**
17 **(D) OF THIS SECTION, THE COURT SHALL CONDUCT A HEARING TO DETERMINE THE**
18 **FAIR MARKET VALUE OF THE PROPERTY NOT SOONER THAN 30 DAYS AFTER A COPY**
19 **OF THE NOTICE OF THE APPRAISAL IS SENT TO EACH PARTY UNDER SUBSECTION (E)**
20 **OF THIS SECTION, WHETHER OR NOT AN OBJECTION TO THE APPRAISAL IS FILED**
21 **UNDER SUBSECTION (E)(3) OF THIS SECTION.**

22 **(2) IN ADDITION TO THE COURT-ORDERED APPRAISAL, THE COURT**
23 **MAY CONSIDER ANY OTHER EVIDENCE OF VALUE OFFERED BY A PARTY.**

24 **(G) AFTER A HEARING UNDER SUBSECTION (F) OF THIS SECTION, BUT**
25 **BEFORE CONSIDERING THE MERITS OF THE PARTITION ACTION, THE COURT SHALL**
26 **DETERMINE THE FAIR MARKET VALUE OF THE PROPERTY AND SEND NOTICE TO THE**
27 **PARTIES OF THE VALUE.**

28 **14-706.**

29 **(A) IF ANY COTENANT REQUESTED PARTITION BY SALE, AFTER THE**
30 **DETERMINATION OF VALUE UNDER § 14-705 OF THIS SUBTITLE, THE COURT SHALL**
31 **SEND NOTICE TO THE PARTIES THAT ANY COTENANT, EXCEPT A COTENANT THAT**
32 **REQUESTED PARTITION BY SALE, MAY BUY ALL THE INTERESTS OF THE COTENANTS**
33 **THAT REQUESTED PARTITION BY SALE.**

1 **(B) NOT LATER THAN 45 DAYS AFTER THE NOTICE IS SENT UNDER**
2 **SUBSECTION (A) OF THIS SECTION, ANY COTENANT, EXCEPT A COTENANT THAT**
3 **REQUESTED PARTITION BY SALE, MAY GIVE NOTICE TO THE COURT THAT THE**
4 **COTENANT ELECTS TO BUY ALL THE INTERESTS OF THE COTENANTS THAT**
5 **REQUESTED PARTITION BY SALE.**

6 **(C) THE PURCHASE PRICE FOR EACH OF THE INTERESTS OF A COTENANT**
7 **THAT REQUESTED PARTITION BY SALE IS THE VALUE OF THE ENTIRE PARCEL**
8 **DETERMINED UNDER § 14-705 OF THIS SUBTITLE MULTIPLIED BY THE COTENANT'S**
9 **FRACTIONAL OWNERSHIP OF THE ENTIRE PARCEL.**

10 **(D) AFTER EXPIRATION OF THE PERIOD DESCRIBED IN SUBSECTION (B) OF**
11 **THIS SECTION, THE FOLLOWING RULES APPLY:**

12 **(1) IF ONLY ONE COTENANT ELECTS TO BUY ALL THE INTERESTS OF**
13 **THE COTENANTS THAT REQUESTED PARTITION BY SALE, THE COURT SHALL NOTIFY**
14 **ALL THE PARTIES;**

15 **(2) IF MORE THAN ONE COTENANT ELECTS TO BUY ALL THE**
16 **INTERESTS OF THE COTENANTS THAT REQUESTED PARTITION BY SALE, THE COURT**
17 **SHALL:**

18 **(i) ALLOCATE THE RIGHT TO BUY THOSE INTERESTS AMONG**
19 **THE ELECTING COTENANTS BASED ON EACH ELECTING COTENANT'S EXISTING**
20 **FRACTIONAL OWNERSHIP OF THE ENTIRE PARCEL DIVIDED BY THE TOTAL EXISTING**
21 **FRACTIONAL OWNERSHIP OF ALL COTENANTS ELECTING TO BUY;**

22 **(ii) NOTIFY ALL THE PARTIES THAT MORE THAN ONE**
23 **COTENANT ELECTED TO BUY ALL THE INTERESTS OF THE COTENANTS THAT**
24 **REQUESTED PARTITION BY SALE; AND**

25 **(iii) SEND NOTICE OF THE PRICE TO BE PAID BY EACH ELECTING**
26 **COTENANT; OR**

27 **(3) IF NO COTENANT ELECTS TO BUY ALL THE INTERESTS OF THE**
28 **COTENANTS THAT REQUESTED PARTITION BY SALE, THE COURT SHALL SEND**
29 **NOTICE TO ALL THE PARTIES AND RESOLVE THE PARTITION ACTION UNDER §**
30 **14-709(A) AND (B) OF THIS SUBTITLE.**

31 **(E) (1) IF THE COURT SENDS NOTICE TO THE PARTIES UNDER**
32 **SUBSECTION (D)(1) OR (2) OF THIS SECTION, THE COURT SHALL SET A DATE NOT**

1 SOONER THAN 60 DAYS AFTER THE DATE THE NOTICE WAS SENT BY WHICH
2 ELECTING COTENANTS MUST PAY THEIR APPORTIONED PRICE INTO THE COURT.

3 (2) AFTER THE DATE SET BY THE COURT UNDER PARAGRAPH (1) OF
4 THIS SUBSECTION, THE FOLLOWING RULES APPLY:

5 (I) IF ALL ELECTING COTENANTS PAY THEIR APPORTIONED
6 PRICE INTO COURT ON TIME, THE COURT SHALL ISSUE AN ORDER REALLOCATING
7 ALL THE INTERESTS OF THE COTENANTS AND DISBURSE THE AMOUNTS HELD BY THE
8 COURT TO THE PERSONS ENTITLED TO THE FUNDS;

9 (II) IF NO ELECTING COTENANT PAYS THE COTENANT'S
10 APPORTIONED PRICE ON TIME, THE COURT SHALL RESOLVE THE PARTITION ACTION
11 UNDER § 14-707(A) AND (B) OF THIS SUBTITLE AS IF THE INTERESTS OF THE
12 COTENANTS THAT REQUESTED PARTITION BY SALE WERE NOT PURCHASED; OR

13 (III) IF ONE OR MORE BUT NOT ALL OF THE ELECTING
14 COTENANTS FAIL TO PAY THEIR APPORTIONED PRICE ON TIME, THE COURT, ON
15 MOTION, SHALL GIVE NOTICE OF THE INTEREST REMAINING AND THE PRICE FOR
16 THAT INTEREST TO THE ELECTING COTENANTS THAT PAID THEIR APPORTIONED
17 PRICE.

18 (F) (1) NOT LATER THAN 20 DAYS AFTER THE COURT GIVES NOTICE
19 UNDER SUBSECTION (E)(2)(III) OF THIS SECTION, ANY COTENANT THAT PAID THE
20 COTENANT'S APPORTIONED PRICE MAY ELECT TO PURCHASE ALL OF THE
21 REMAINING INTEREST BY PAYING THE ENTIRE PRICE INTO THE COURT.

22 (2) AFTER THE 20-DAY PERIOD DESCRIBED IN PARAGRAPH (1) OF
23 THIS SUBSECTION, THE FOLLOWING RULES APPLY:

24 (I) IF ONLY ONE COTENANT PAYS THE ENTIRE PRICE FOR THE
25 REMAINING INTEREST, THE COURT SHALL:

26 1. ISSUE AN ORDER REALLOCATING THE REMAINING
27 INTEREST TO THAT COTENANT; AND

28 2. PROMPTLY ISSUE AN ORDER REALLOCATING THE
29 INTERESTS OF ALL OF THE COTENANTS AND DISBURSE THE AMOUNTS HELD BY THE
30 COURT TO THE PERSONS ENTITLED TO THEM;

31 (II) IF NO COTENANT PAYS THE ENTIRE PRICE FOR THE
32 REMAINING INTEREST, THE COURT SHALL RESOLVE THE PARTITION ACTION UNDER

1 § 14-707(A) AND (B) OF THIS SUBTITLE AS IF THE INTERESTS OF THE COTENANTS
2 THAT REQUESTED PARTITION BY SALE WERE NOT PURCHASED; AND

3 (III) IF MORE THAN ONE COTENANT PAYS THE ENTIRE PRICE
4 FOR THE REMAINING INTEREST, THE COURT SHALL:

5 1. REAPPORTION THE REMAINING INTEREST AMONG
6 THOSE PAYING COTENANTS, BASED ON EACH PAYING COTENANT'S ORIGINAL
7 FRACTIONAL OWNERSHIP OF THE ENTIRE PARCEL DIVIDED BY THE TOTAL ORIGINAL
8 FRACTIONAL OWNERSHIP OF ALL COTENANTS THAT PAID THE ENTIRE PRICE FOR
9 THE REMAINING INTEREST; AND

10 2. PROMPTLY ISSUE AN ORDER REALLOCATING ALL OF
11 THE COTENANTS' INTERESTS, DISBURSE THE AMOUNTS HELD BY THE COURT TO THE
12 PERSONS ENTITLED TO THEM, AND REFUND ANY EXCESS PAYMENT HELD BY THE
13 COURT.

14 (G) NOT LATER THAN 45 DAYS AFTER THE COURT SENDS NOTICE TO THE
15 PARTIES UNDER SUBSECTION (A) OF THIS SECTION, ANY COTENANT ENTITLED TO
16 BUY AN INTEREST UNDER THIS SECTION MAY REQUEST THE COURT TO AUTHORIZE
17 THE SALE AS PART OF THE PENDING ACTION OF THE INTERESTS OF COTENANTS
18 NAMED AS DEFENDANTS AND SERVED WITH THE COMPLAINT BUT THAT DID NOT
19 APPEAR IN THE ACTION.

20 (H) IF THE COURT RECEIVES A TIMELY REQUEST UNDER SUBSECTION (G) OF
21 THIS SECTION, THE COURT, AFTER A HEARING, MAY DENY THE REQUEST OR
22 AUTHORIZE THE REQUESTED ADDITIONAL SALE ON TERMS THE COURT DETERMINES
23 ARE FAIR AND REASONABLE, SUBJECT TO THE FOLLOWING LIMITATIONS:

24 (1) A SALE AUTHORIZED UNDER THIS SUBSECTION MAY OCCUR ONLY
25 AFTER THE PURCHASE PRICES FOR ALL INTERESTS SUBJECT TO SALE UNDER
26 SUBSECTIONS (A) THROUGH (F) OF THIS SECTION HAVE BEEN PAID INTO COURT AND
27 THOSE INTERESTS HAVE BEEN REALLOCATED AMONG THE COTENANTS AS
28 PROVIDED IN SUBSECTIONS (A) THROUGH (F) OF THIS SECTION; AND

29 (2) THE PURCHASE PRICE FOR THE INTEREST OF A NONAPPEARING
30 COTENANT IS BASED ON THE COURT'S DETERMINATION OF VALUE UNDER § 14-705
31 OF THIS SUBTITLE.

32 14-707.

33 (A) (1) IF UNDER § 14-706 OF THIS SUBTITLE ALL THE INTERESTS OF ALL
34 COTENANTS THAT REQUESTED PARTITION BY SALE ARE NOT PURCHASED BY OTHER

1 COTENANTS, OR IF AFTER THE CONCLUSION OF THE BUYOUT A COTENANT REMAINS
2 THAT HAS REQUESTED PARTITION IN KIND, THE COURT SHALL ORDER PARTITION IN
3 KIND UNLESS THE COURT, AFTER CONSIDERATION OF THE FACTORS LISTED IN §
4 14-708 OF THIS SUBTITLE, FINDS THAT PARTITION IN KIND WILL RESULT IN GREAT
5 PREJUDICE TO THE COTENANTS AS A GROUP.

6 (2) IN CONSIDERING WHETHER TO ORDER PARTITION IN KIND, THE
7 COURT SHALL APPROVE A REQUEST BY TWO OR MORE PARTIES TO HAVE THEIR
8 INDIVIDUAL INTERESTS AGGREGATED.

9 (B) IF THE COURT DOES NOT ORDER PARTITION IN KIND UNDER
10 SUBSECTION (A) OF THIS SECTION, THE COURT SHALL ORDER PARTITION BY SALE
11 UNDER § 14-709 OF THIS SUBTITLE OR, IF NO COTENANT REQUESTED PARTITION BY
12 SALE, THE COURT SHALL DISMISS THE ACTION.

13 (C) IF THE COURT ORDERS PARTITION IN KIND IN ACCORDANCE WITH
14 SUBSECTION (A) OF THIS SECTION, THE COURT MAY REQUIRE THAT ONE OR MORE
15 COTENANTS PAY ONE OR MORE OTHER COTENANTS AMOUNTS SO THAT THE
16 PAYMENTS, TAKEN TOGETHER WITH THE VALUE OF THE IN-KIND DISTRIBUTIONS TO
17 THE COTENANTS, WILL MAKE THE PARTITION IN KIND JUST AND PROPORTIONATE
18 IN VALUE TO THE FRACTIONAL INTERESTS HELD.

19 (D) IF THE COURT ORDERS PARTITION IN KIND, THE COURT SHALL
20 ALLOCATE TO THE COTENANTS THAT ARE UNKNOWN, UNLOCATABLE, OR THE
21 SUBJECT OF A DEFAULT JUDGMENT, IF THEIR INTERESTS WERE NOT BOUGHT OUT
22 UNDER § 14-706 OF THIS SUBTITLE, A PART OF THE PROPERTY REPRESENTING THE
23 COMBINED INTERESTS OF THESE COTENANTS AS DETERMINED BY THE COURT AND
24 THIS PART OF THE PROPERTY SHALL REMAIN UNDIVIDED.

25 14-708.

26 (A) IN DETERMINING WHETHER PARTITION IN KIND UNDER § 14-707(A) OF
27 THIS SUBTITLE WOULD RESULT IN GREAT PREJUDICE TO THE COTENANTS AS A
28 GROUP, THE COURT SHALL CONSIDER THE FOLLOWING:

29 (1) WHETHER THE HEIRS PROPERTY PRACTICABLY CAN BE DIVIDED
30 AMONG THE COTENANTS;

31 (2) WHETHER PARTITION IN KIND WOULD APPORTION THE
32 PROPERTY IN SUCH A WAY THAT THE AGGREGATE FAIR MARKET VALUE OF THE
33 PARCELS RESULTING FROM THE DIVISION WOULD BE MATERIALLY LESS THAN THE
34 VALUE OF THE PROPERTY IF IT WERE SOLD AS A WHOLE, TAKING INTO ACCOUNT THE
35 CONDITION UNDER WHICH A COURT-ORDERED SALE LIKELY WOULD OCCUR;

1 **(3) EVIDENCE OF THE COLLECTIVE DURATION OF OWNERSHIP OR**
2 **POSSESSION OF THE PROPERTY BY A COTENANT AND ONE OR MORE PREDECESSORS**
3 **IN TITLE OR PREDECESSORS IN POSSESSION TO THE COTENANT WHO ARE OR WERE**
4 **RELATIVES OF THE COTENANT OR EACH OTHER;**

5 **(4) THE SENTIMENTAL ATTACHMENT OF A COTENANT TO THE**
6 **PROPERTY, INCLUDING ANY ATTACHMENT ARISING BECAUSE THE PROPERTY HAS**
7 **ANCESTRAL OR OTHER UNIQUE OR SPECIAL VALUE TO THE COTENANT;**

8 **(5) THE LAWFUL USE BEING MADE OF THE PROPERTY BY A COTENANT**
9 **AND THE DEGREE TO WHICH THE COTENANT WOULD BE HARMED IF THE COTENANT**
10 **COULD NOT CONTINUE THE SAME USE OF THE PROPERTY;**

11 **(6) THE DEGREE TO WHICH THE COTENANTS HAVE CONTRIBUTED**
12 **THEIR PRO RATA SHARE OF THE PROPERTY TAXES, INSURANCE, AND OTHER**
13 **EXPENSES ASSOCIATED WITH MAINTAINING OWNERSHIP OF THE PROPERTY OR**
14 **HAVE CONTRIBUTED TO THE PHYSICAL IMPROVEMENT, MAINTENANCE, OR UPKEEP**
15 **OF THE PROPERTY; AND**

16 **(7) ANY OTHER RELEVANT FACTOR.**

17 **(B) THE COURT MAY NOT CONSIDER ANY ONE FACTOR IN SUBSECTION (A)**
18 **OF THIS SECTION TO BE DISPOSITIVE WITHOUT WEIGHING THE TOTALITY OF ALL**
19 **RELEVANT FACTORS AND CIRCUMSTANCES.**

20 **14-709.**

21 **(A) IF THE COURT ORDERS A SALE OF HEIRS PROPERTY, THE SALE SHALL**
22 **BE AN OPEN-MARKET SALE UNLESS THE COURT FINDS THAT A SALE BY SEALED BIDS**
23 **OR AN AUCTION WOULD BE MORE ECONOMICALLY ADVANTAGEOUS AND IN THE BEST**
24 **INTEREST OF THE COTENANTS AS A GROUP.**

25 **(B) (1) IF THE COURT ORDERS AN OPEN-MARKET SALE AND THE**
26 **PARTIES, NOT LATER THAN 10 DAYS AFTER THE ENTRY OF THE ORDER, AGREE ON A**
27 **REAL ESTATE BROKER LICENSED IN THE STATE TO OFFER THE PROPERTY FOR SALE,**
28 **THE COURT SHALL APPOINT THE BROKER AND ESTABLISH A REASONABLE**
29 **COMMISSION.**

30 **(2) IF THE PARTIES DO NOT AGREE ON A BROKER, THE COURT SHALL**
31 **APPOINT A DISINTERESTED REAL ESTATE BROKER LICENSED IN THE STATE TO**
32 **OFFER THE PROPERTY FOR SALE AND SHALL ESTABLISH A REASONABLE**
33 **COMMISSION.**

1 **(3) A BROKER APPOINTED UNDER THIS SUBSECTION SHALL OFFER**
2 **THE PROPERTY FOR SALE IN A COMMERCIALY REASONABLE MANNER AT A PRICE**
3 **NOT LOWER THAN THE DETERMINATION OF VALUE AND ON THE TERMS AND**
4 **CONDITIONS ESTABLISHED BY THE COURT.**

5 **(C) IF THE BROKER APPOINTED UNDER SUBSECTION (B) OF THIS SECTION**
6 **OBTAINS WITHIN A REASONABLE TIME AN OFFER TO PURCHASE THE PROPERTY FOR**
7 **AT LEAST THE DETERMINATION OF VALUE:**

8 **(1) THE BROKER SHALL COMPLY WITH THE REPORTING**
9 **REQUIREMENTS IN § 14-710 OF THIS SUBTITLE; AND**

10 **(2) THE SALE MAY BE COMPLETED IN ACCORDANCE WITH STATE LAW**
11 **OTHER THAN THIS SUBTITLE.**

12 **(D) IF THE BROKER APPOINTED UNDER SUBSECTION (B) OF THIS SECTION**
13 **DOES NOT OBTAIN WITHIN A REASONABLE TIME AN OFFER TO PURCHASE THE**
14 **PROPERTY FOR AT LEAST THE DETERMINATION OF VALUE, THE COURT, AFTER**
15 **HEARING, MAY:**

16 **(1) APPROVE THE HIGHEST OUTSTANDING OFFER, IF ANY;**

17 **(2) REDETERMINE THE VALUE OF THE PROPERTY AND ORDER THAT**
18 **THE PROPERTY CONTINUE TO BE OFFERED FOR AN ADDITIONAL TIME; OR**

19 **(3) ORDER THAT THE PROPERTY BE SOLD BY SEALED BIDS OR AT AN**
20 **AUCTION.**

21 **(E) (1) IF THE COURT ORDERS A SALE BY SEALED BIDS OR AN AUCTION,**
22 **THE COURT SHALL SET TERMS AND CONDITIONS OF THE SALE.**

23 **(2) IF THE COURT ORDERS AN AUCTION, THE AUCTION SHALL BE**
24 **CONDUCTED UNDER § 14-107 OF THIS TITLE.**

25 **(F) IF A PURCHASER IS ENTITLED TO A SHARE OF THE PROCEEDS OF THE**
26 **SALE, THE PURCHASER IS ALSO ENTITLED TO A CREDIT AGAINST THE PRICE IN AN**
27 **AMOUNT EQUAL TO THE PURCHASER'S SHARE OF THE PROCEEDS.**

28 **14-710.**

29 **(A) UNLESS REQUIRED TO DO SO WITHIN A SHORTER PERIOD OF TIME**
30 **UNDER § 14-107 OF THIS TITLE, A BROKER APPOINTED UNDER § 14-709(B) OF THIS**

1 SUBTITLE TO OFFER HEIRS PROPERTY FOR OPEN-MARKET SALE SHALL FILE A
2 REPORT WITH THE COURT NOT LATER THAN 7 DAYS AFTER RECEIVING AN OFFER TO
3 PURCHASE THE PROPERTY FOR AT LEAST THE VALUE DETERMINED UNDER § 14-705
4 OR § 14-709 OF THIS SUBTITLE.

5 (B) A REPORT REQUIRED UNDER SUBSECTION (A) OF THIS SECTION SHALL
6 CONTAIN THE FOLLOWING INFORMATION:

- 7 (1) A DESCRIPTION OF THE PROPERTY TO BE SOLD TO EACH BUYER;
- 8 (2) THE NAME OF EACH BUYER;
- 9 (3) THE PROPOSED PURCHASE PRICE;
- 10 (4) THE TERMS AND CONDITIONS OF THE PROPOSED SALE,
11 INCLUDING THE TERMS OF ANY OWNER FINANCING;
- 12 (5) THE AMOUNTS TO BE PAID TO LIENHOLDERS;
- 13 (6) A STATEMENT OF CONTRACTUAL OR OTHER ARRANGEMENTS OR
14 CONDITIONS OF THE BROKER'S COMMISSION; AND
- 15 (7) OTHER MATERIAL FACTS RELEVANT TO THE SALE.

16 14-711.

17 IN APPLYING AND CONSTRUING THIS SUBTITLE, WHICH IS A UNIFORM ACT,
18 CONSIDERATION SHALL BE GIVEN TO THE NEED TO PROMOTE UNIFORMITY OF THE
19 LAW WITH RESPECT TO THE SUBJECT MATTER OF THE LAW AMONG THE STATES
20 THAT ENACT IT.

21 14-712.

22 THIS SUBTITLE MODIFIES, LIMITS, AND SUPERSEDES THE ELECTRONIC
23 SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT, 15 U.S.C. § 7001 ET SEQ.,
24 BUT DOES NOT MODIFY, LIMIT, OR SUPERSEDE § 101(C) OF THAT ACT, 15 U.S.C. §
25 7001(C), OR AUTHORIZE ELECTRONIC DELIVERY OF ANY OF THE NOTICES
26 DESCRIBED IN § 103(B) OF THAT ACT, 15 U.S.C. § 7003(B).

27 14-713.

28 THIS SUBTITLE MAY BE CITED AS THE MARYLAND UNIFORM PARTITION OF
29 HEIRS PROPERTY ACT.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to
2 apply only prospectively and may not be applied or interpreted to have any effect on or
3 application to any partition action filed before the effective date of this Act.

4 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
5 October 1, 2022.