

2025 Regular Session

HOUSE BILL NO. 175

BY REPRESENTATIVE WILFORD CARTER

(On Recommendation of the Louisiana State Law Institute)

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

PROPERTY: Provides for the partition of property

1 AN ACT

2 To amend and reenact Civil Code Article 811 and Chapter 12 of Title I of Book III of the
3 Civil Code, comprised of Civil Code Articles 1289 through 1414, and Code of Civil
4 Procedure Articles 81, 4622(B)(1)(b), and 4624, to enact Part V of Chapter 1 of Code
5 Title I of Code Book II of Title 9 of the Louisiana Revised Statutes of 1950, to be
6 comprised of R.S. 9:1150 through 1150.8, and to repeal Civil Code Articles 1290,
7 1291, 1295 through 1297, 1299 through 1301, 1305, 1306, 1308, 1310 through 1315,
8 1318 through 1321, 1329 through 1337, 1341 through 1367, 1370 through 1373,
9 1378, 1379, 1382, 1385 through 1396, 1399, and 1402 through 1414 and R.S.
10 9:1113, relative to the partition of property; to provide for partition by licitation; to
11 provide for partition by private sale; to provide for the partition of estates; to provide
12 for undivided co-ownership rights until the partition of estates; to provide for
13 petitions for partition; to provide for the publication of notice for partition; to provide
14 for the Louisiana Uniform Partition of Heirs Property Act; to provide for the repeal
15 of antiquated partition of succession articles in the Civil Code; to provide for a
16 special effective date; and to provide for related matters.

17 Be it enacted by the Legislature of Louisiana:

18 Section 1. Civil Code Article 811 is hereby amended and reenacted to read as
19 follows:

20 Art. 811. Partition by licitation or by private sale

1 A. When the thing held in indivision is not susceptible to partition in kind,
2 the court shall decree a partition by licitation or, ~~as provided in Paragraph B of this~~
3 Article, by private sale and the proceeds shall be distributed to the co-owners in
4 proportion to their shares.

5 ~~B. In the event that one or more of the co-owners are absentees or have not~~
6 ~~consented to a partition by private sale, the court shall order a partition by private~~
7 ~~sale and shall give first priority to the private sale between the existing co-owners,~~
8 ~~over the sale by partition by licitation or private sale to third parties. The court shall~~
9 ~~order the partition by private sale between the existing co-owners as identified in the~~
10 ~~conveyance records as of the date of filing for the petition for partition by private~~
11 ~~sale. The petition for partition by private sale shall be granted first priority, and the~~
12 ~~sale shall be executed under Title IX of Book VII of the Code of Civil Procedure.~~

13 Section 2. Chapter 12 of Title I of Book III of the Civil Code, comprised of Civil
14 Code Articles 1289 through 1414, is hereby amended and reenacted to read as follows:

15 CHAPTER 12. OF THE PARTITION OF ~~SUCCESSIONS~~ ESTATES

16 SECTION 1. OF THE NATURE OF PARTITION;

17 AND OF ITS SEVERAL KINDS

18 Art. 1292. Undivided ownership rights until partition:

19 When a person, at his decease, leaves several the decedent's estate devolves
20 in favor of multiple heirs, each of them becomes an undivided ~~proprietor~~ co-owner
21 of the effects of the succession, for the part or portion coming to him, which forms
22 among the heirs a community of property, as long as it remains undivided estate for
23 each co-owner's respective share.

24 Revision Comments - 2025

25 This provision is new. It does not change the law. It expresses the principle
26 underlying Article 1292 (1870). The term "estate" is defined in Article 872 as "the
27 property, rights, and obligations that a person leaves after his death."

28 Art. 1293. ~~Partition of a succession, definition.~~ Intestate partition; definition

1 The partition of a ~~succession~~ an intestate estate is the division of the effects,
2 ~~of which the succession is composed,~~ estate among all of the coheirs, according to
3 their respective rights.

4 Revision Comments - 2025

5 This provision is new. It does not change the law. It expresses the principle
6 underlying Article 1293 (1870).

7 Art. 1302. Testamentary partition

8 There is no occasion for partition, if the deceased has regulated it between his
9 lawful heirs, or strangers, or if the deceased Partition shall not be demanded when
10 a testator has assigned specific assets of the estate to his legatees and may be
11 demand only when the testator has allocated undivided shares of the estate to the
12 testator's legatees. Partition also shall not be demanded when a testator has expressly
13 delegated the authority to his the testator's executor to allocate specific assets to
14 satisfy a legacy expressed in terms of a quantum or value; and in such case the judge
15 must follow the will of the testator or his executor.

The same thing takes place when the testator has expressly assigned specific assets of his estate, or delegated the authority to assign specific assets of his estate, in satisfaction of the forced portion of his children.

19 Revision Comments - 2025

20 This provision is new. It does not change the law. It expresses the principle
21 underlying Article 1302 (1870).

22 SECTION 2--. ~~AMONG WHAT PERSONS PARTITION~~

23 ~~CAN BE SUED FOR~~ AMONG CERTAIN PERSONS

24 Art. 1307. Partition between heirs and legatees:

25 A partition may be ~~sued for by any heirs, testamentary or *ab intestato*~~
26 demanded by any of the heirs or legatees who hold property in indivision.

~~It can also be sued for by any universal legatee or legatee under an universal title, and even by a particular legatee, when a thing has been bequeathed to him in common with one or more persons.~~

30 Revision Comments - 2025

1 This provision is new. It does not change the law. It expresses the principle
2 underlying Article 1307 (1870). It is also consistent with Article 807.

3 Art. 1309. Partition between ~~possessors in common~~, holders of real rights

4 ~~It is not indispensable to be owner in common in order to be able to support~~
5 ~~the action of partition; possession alone, when it is lawful and proceeds from a just~~
6 ~~title, will support it.~~

7 Holders of real rights in indivision may demand partition of those rights.

8 Thus, ~~usufructuaries~~ co-usufructuaries of the same ~~estate can~~ property may institute
9 among themselves ~~the~~ an action of partition.

10 Revision Comments - 2025

11 This provision is new. It does not change the law. It expresses the principle
12 underlying Article 1309 (1870). It is also consistent with Articles 541 and 542.
13 Despite the existence of holders of real rights in indivision, a person holding a share
14 in full ownership cannot be required to dismember that interest by the holder of a
15 right that is less than full ownership. See, e.g., Article 543.

16 SECTION 3=~~_~~ ~~IN WHAT MANNER THE~~ OF JUDICIAL

17 PARTITION IS MADE

18 Art. 1325. Inventory ~~within one year of partition suit~~, or detailed descriptive list

19 The public inventory, ~~which may have been made by the parties interested~~
20 ~~at a time not exceeding one year previous to the suit for a partition~~, or the detailed
21 descriptive list of the estate shall serve as the basis of the partition, unless ~~one of the~~
22 ~~heirs~~ an heir or legatee demands ~~a new appraisement~~, an appraisal and proves that
23 ~~the effects mentioned in the inventory have not been estimated at their just price, or~~
24 ~~at the value they have acquired since the date of this act~~ inventory or detailed
25 descriptive list is not accurate.

26 Revision Comments - 2025

27 This provision is new. It does not change the law. It expresses the principle
28 underlying Article 1325 (1870). For production of a detailed descriptive list, see
29 Code of Civil Procedure Article 2952.

30 Art. 1326. ~~New appraisement~~. Appraisal

31 ~~In this case the judge is bound to order a new appraisement of the effects to~~
32 ~~be divided, which shall be made by experts appointed by him to that effect, and duly~~

1 ~~sworn by the officer who is appointed to make the proces verbal of the appraisal.~~

2 If the inventory or detailed descriptive list is not accurate, the judge may order an
3 appraisal of the assets of the estate to be partitioned.

4 Revision Comments - 2025

5 This provision is new. It expresses the principle underlying Article 1326
6 (1870).

7 Art. 1328. ~~Summary proceeding~~ Proceeding for action of partition:

8 ~~The judge, before whom the action of partition is brought, is bound to~~
9 ~~pronounce thereon in a summary manner, by which is always meant with the least~~
10 ~~possible delay and * in preference to the ordinary suits pending before him. Except~~
11 as otherwise provided by law, an action for partition is subject to the rules regulating
12 ordinary proceedings but shall be tried with preference over other ordinary
13 proceedings.

14 Revision Comments - 2025

15 This provision is new. It changes the law in part by making partition
16 proceedings ordinary proceedings but still retaining a preference over other ordinary
17 proceedings. It is based in part on Article 1328 (1870). Summary proceedings are
18 still appropriate for partitions in instances in which other laws provide for summary
19 proceedings. See Code of Civil Procedure Article 2592(5).

20 Art. 1380. Subsequent discovery of property;₂ amendment of partition:

21 If, after the partition, ~~a discovery should be made of some property not~~
22 ~~included in it~~ additional property is discovered, the partition ~~must~~ may be amended
23 ~~or made over again, either in totality, or of the discovered property alone to include~~
24 the newly discovered property.

25 Revision Comments - 2025

26 This provision is new. It does not change the law. It expresses the principle
27 underlying Article 1380 (1870). See also Article 1401.

28 SECTION ~~6~~4. OF THE WARRANTY OF PARTITION

29 Art. 1384. Reciprocal warranty against disturbance or eviction:

30 ~~The coheirs remain respectively bound to warrant, one to the other, the~~
31 ~~property falling to each of their shares against the disturbance and eviction which~~

1 they may suffer, when the disturbance or eviction proceeds from a cause anterior to
2 the partition. When an estate is partitioned, each co-owner acquires the rights and
3 incurs the obligations of a seller with respect to the thing transferred by him and
4 acquires the rights and incurs the obligations of a buyer with respect to the thing
5 transferred to him.

6 Revision Comments - 2025

7 This provision is new. It does not change the law. It expresses the principle
8 underlying Article 1384 (1870). See also Article 816.

9 * * *

10 SECTION 7 5. OF THE NULLITY OR RESCISSION OF PARTITION

11 Art. 1400. ~~Provisional partitions involving minors, interdicts, or absent persons~~

12 Grounds for nullity or rescission of partition

But if these formalities have not been fulfilled, as the partition is only considered as provisional, it is not necessary to sue for the rescission of it, but a new partition may be demanded for the least lesion, which the minor, person interdicted, or absent person, may have suffered: A partition may be null on the same grounds as a contract of sale. It may also be rescinded for lesion if the value of the property received by a co-owner is less by more than one-fourth of the fair market value of the portion that the co-owner should have received.

20 Revision Comments - 2025

21 This provision is new. It is based, in part, on the principles underlying
22 Articles 1399, 1400, and 1401 through 1414 (1870).

23 Art. 1401. Omission of succession effects not cause for rescission:

24 The mere omission of a thing, ~~belonging to the succession, of the estate~~ is not
25 a ground for rescission; but simply for a supplementary partition or amendment of
26 the original partition.

27 Revision Comments - 2025

28 This provision is new. It does not change the law. It expresses the principle
29 underlying Article 1401 (1870). See also Article 1380.

Section 3. Code of Civil Procedure Articles 81, 4622(B)(1)(b), and 4624 are hereby amended and reenacted to read as follows:

Art. 81. Action involving succession

When a succession has been opened judicially, until rendition of the judgment of possession, the following actions shall be brought in the court in which the succession proceeding is pending:

(1) A personal action by a creditor of the deceased~~;~~² but an action brought against the deceased prior to ~~his~~ death may be prosecuted against ~~his~~ the succession representative in the court in which it was brought~~;~~

(2) An action to partition the ~~succession;~~ estate.

(3) An action to annul the testament of the deceased~~;~~ and.

(4) An action to assert a right ~~to~~ in the succession of the deceased, either under ~~his~~ the testament or by effect of law.

* * *

Art. 4622. Petition

* * *

B.(1) If the partition is to be made by private sale, the petition for partition between the co-owners shall have first priority status by the court and shall include all of the following:

* * *

(b) The name of the proposed purchaser and whether the proposed purchaser is a co-owner or third party ~~in accordance with Civil Code Article 811(B).~~

* * *

Art. 4624. Publication of notice

Notice of the institution of the proceeding shall be published at least once in the parish where the partition proceeding is instituted, in the manner provided by law. This notice shall set forth the title and docket number of the proceeding, the name and address of the court, a description of the property sought to be partitioned, and the primary terms of the private sale and shall notify the absent defendant that

1 the plaintiff is seeking to have the property partitioned by licitation or by private sale
2 ~~under~~ in accordance with Civil Code Article 811, this Chapter, and Chapter 1 of this
3 Title, and that the absent defendant has fifteen days from the date of the publication
4 of notice, or of the initial publication of notice if there is more than one publication,
5 to answer the plaintiff's petition. If the property sought to be partitioned is a
6 corporeal immovable, the petitioner, contemporaneous with publication of notice,
7 shall also affix a copy of the notice in at least one prominent location on the
8 immovable.

9 Section 4. Part V of Chapter 1 of Code Title I of Code Book II of Title 9 of the
10 Louisiana Revised Statutes of 1950, to be comprised of R.S. 9:1150 through 1150.8, is
11 hereby enacted to read as follows:

12 PART V. LOUISIANA UNIFORM PARTITION OF HEIRS PROPERTY ACT

13 §1150. Short title

14 This Part shall be known and may be cited as the "Louisiana Uniform
15 Partition of Heirs Property Act".

16 Revision Comments - 2025

17 It is the express goal of the Louisiana Uniform Partition of Heirs Property
18 Act to adopt the core components of the Uniform Partition of Heirs Property Act, as
19 modified to be compatible with other provisions of Louisiana law. The Act attempts
20 to address the problem "faced by many middle to low- income families who own
21 [immovable] property: dispossession of their land through a forced sale." See The
22 Uniform Partition of Heirs Property Act: A Summary. Although this Act employs
23 some of the same numeric thresholds of the Uniform Partition of Heirs Property Act,
24 the scope of applicability of this Act differs from the uniform act. See R.S. 9:1150.1.
25 §1150.1. Applicability

26 Unless otherwise agreed to in writing by all co-owners as of the time of
27 partition, the provisions of this Part shall be applicable whenever a petition to
28 partition a corporeal immovable is filed by a co-owner or co-owners owning an
29 aggregate interest of less than fifty percent of the immovable and either of the
30 following apply:

31 (1) Twenty percent or more of all co-owners are related within the eighth
32 degree, whether by consanguinity or by adoption.

(2) Twenty percent or more of the remaining interest in the immovable is owned by co-owners who are related within the eighth degree, whether by consanguinity or by adoption.

Revision Comments - 2025

(a) This Section is based upon former R.S. 9:1113(A) and Section 2(5)(C) of the Uniform Partition of Heirs Property Act. This Section modifies, however, the approach of the Uniform Partition of Heirs Property Act, which is applicable only if (1) there is no agreement to the contrary, one or more of the co-owners acquired the property from a "relative," and 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 individual who acquired title from a relative, whether living or deceased; or (iii) 20 percent or more of the cotenants are relatives." The approach of the Uniform Partition of Heirs Property Act was determined to be unworkable in Louisiana. As a result, this Act alters the approach of the uniform act and makes this Act applicable when the petitioning co-owners own an aggregate interest of less than fifty percent of the immovable and twenty percent or more of the co-owners are related within the eighth degree, whether by consanguinity or adoption. In addition, the Act also applies if the petitioning co-owners own an aggregate interest of less than fifty percent of the immovable and twenty percent or more of the remaining interest in the property is owned by co-owners who are related within the eighth degree, whether by consanguinity or adoption.

(b) This Act applies only to partition of corporeal immovable property to which this Part applies. It is thus inapplicable to partitions of mineral rights, which are incorporeal immovables. See R.S. 31:18.

(c) The provisions of this Part are not applicable to community property partitions, which are governed by more specific provisions of legislation. See R.S. 9:2801.

§1150.2. Fair market value

A. Upon the filing of a petition to partition a corporeal immovable by a co-owner subject to this Part, the court shall determine the fair market value of the immovable, assuming sole ownership of the immovable.

B. Prior to a hearing as required by Subsection C of this Section, the court shall appoint an independent, Louisiana licensed real estate appraiser to determine the fair market value of the immovable. Not later than ten days after the filing of the appraisal with the court, the petitioner shall send written notice informing each co-owner of all of the following:

(1) The appraised fair market value of the immovable.

(2) The availability of the appraisal at the clerk's office.

(3) That any co-owner may file with the court an objection to the appraisal
not later than thirty days after the notice is sent, stating the grounds for the objection.

C. Not sooner than thirty days after a copy of the notice of the appraisal is sent to each co-owner, the court shall conduct an evidentiary hearing to determine the fair market value of the immovable, unless by consent judgment all co-owners agree on the value of the immovable as determined in accordance with this Section.

A suspensive appeal without security may be taken as a matter of right from a written judgment rendered after an evidentiary hearing as provided in this Subsection. No devolutive appeal may be taken on the issue of the fair market value of the immovable.

Revision Comments - 2025

(a) This Section is based, in part, upon Section 6 of the Uniform Partition of Heirs Property Act.

(b) Subsection A of this Section requires a court determination of the fair market value of the property subject to partition. An important requirement under this Act is that the fair market value of the property be the value assuming sole ownership of the immovable, not a discounted value due to fractional ownership.

(c) Under Subsection B of this Section, the court shall appoint an appraiser who is independent of all parties and who is licensed pursuant to R.S. 37:3391 et seq. Within ten days after the filing of the appraisal, the petitioner must send the pertinent information provided in Subsection B to all co-owners, who then have the opportunity to object to the appraisal.

(d) After notice and an opportunity to object, an evidentiary hearing will be held pursuant to Subsection C of this Section to determine the fair market value of the property, unless the parties enter a consent judgment as to the value of the property, in which case no hearing is required. If a hearing is held, the court may consider any relevant evidence in determining the fair market value of the property, including, of course, the appraised value of the property. Any co-owner may suspensively appeal the court's written judgment.

§1150.3. Co-owners' right of first purchase

A. If a co-owner files a petition to partition a corporeal immovable subject to this Part, the court shall allow the remaining co-owners to purchase at private sale the petitioner's share. The price of the petitioner's share shall be determined by multiplying the petitioner's fractional interest in the immovable by the fair market value of the immovable, as determined in accordance with R.S. 9:1150.2.

B. In the petition for partition, the petitioner shall allege the respective ownership interests of each co-owner of the immovable and the relationship between the co-owners and shall notify each other co-owner of the right to purchase the co-owner's pro rata share of the petitioner's interest. The calculation of a co-owner's pro rata share shall be based on the percentage of ownership of potential purchasing co-owners, excluding the petitioning co-owners.

C. To exercise the right to purchase a pro rata share of the petitioner's interest, a co-owner shall file into the record a written notice exercising the option to purchase not later than:

(1) Fifteen days after the expiration of the delay for appealing the judgment
in R.S. 9:1150.2(C), if no appeal is taken.

(2) Fifteen days after the judgment in R.S. 9:1150.2(C) becomes final and definitive, if an appeal is taken.

(3) Thirty days after the sending of the notice of a consent judgment, if a
consent judgment is rendered.

Revision Comments - 2025

(a) This Section is based upon former R.S. 9:1113(B) and Section 7 of the Uniform Partition of Heirs Property Act.

(b) Subsection A of this Section allows all of the other co-owners to buy out the co-owner seeking partition, which is a core component of the Uniform Partition of Heirs Property Act. Rather than the traditional sale by auction, this sale occurs by private sale of the petitioner's share for a price determined by the fair market value of the property multiplied by the petitioner's fractional ownership interest.

(c) Subsection B of this Section requires the petitioner to allege in the petition the ownership interests of all co-owners. Unlike the uniform act, which allows each co-owner to buy the entire share of the petitioner, see UHPA Section 7(b) and (c), this Section is based upon former R.S. 9:1113, which allowed each co-owner to buy a pro rata share of the petitioner's interest.

(d) Subsection C of this Section allows each co-owner the right to purchase a pro rata share of the petitioner's interest, provided that the co-owner timely files written notice of the desire to do so with the court. Three timeframes for exercising the right to purchase are provided by Subsection C and depend upon whether a consent judgment is obtained and whether an appeal is taken.

§1150.4. Exercise or failure to exercise option of purchase

1 A. If none of the co-owners exercises the option to purchase a pro rata share
2 of the petitioner's interest, the court shall order partition of the entire property
3 pursuant to R.S. 9:1150.6.

4 B. If one or more but not all of the co-owners have exercised the option to
5 purchase a pro rata share, then upon the expiration of the time to file the notice
6 required in R.S. 9:1150.3(C), any co-owner who has failed to timely exercise the
7 option to purchase relinquishes the right to purchase. The relinquishment of the right
8 to purchase shall inure to the benefit of the remaining purchasing co-owners. When
9 a potential purchasing co-owner relinquishes the right to purchase, the pro rata share
10 shall be recalculated among only the remaining purchasing co-owners, excluding the
11 relinquishing co-owners. Once a co-owner relinquishes the right to purchase a pro
12 rata share, that co-owner shall not be entitled to file any subsequent notice to
13 purchase in the pending action. The petitioner shall send written notice to the
14 remaining purchasing co-owners stating the recalculated pro rata share of the
15 remaining purchasing co-owners and informing them of the right to purchase their
16 recalculated pro rata shares by filing written notice into the record not later than
17 thirty days from the sending of the notice by the petitioner. The procedures provided
18 in this Subsection shall continue until there are no outstanding shares or no
19 purchasing co-owner exercises the option to purchase a pro rata share. The court may
20 use its discretion in rounding the shares of the co-owners to the nearest hundredth
21 share. If, after completion of the process in this Subsection, an unpurchased share in
22 the immovable remains, the court shall order the sale of only the unpurchased share
23 pursuant to R.S. 9:1150.7(B).

24 C. If all of the co-owners have exercised the option to purchase their pro rata
25 shares, or if at least one co-owner has exercised the option to purchase a pro rata
26 share and no outstanding shares of the petitioner's interest remain, the court shall set
27 a date, not sooner than sixty days after the sending of the last notice in accordance
28 with Subsection B of this Section or sixty days after the sending of the last notice
29 exercising the right to purchase in R.S. 9:1150.3(C), whichever is later, by which the

1 co-owners exercising the option to purchase their pro rata shares shall timely pay the
2 apportioned price into the registry of the court.

3 Revision Comments - 2025

4 (a) This Section is based upon former R.S. 9:1113(B) and Section 7 of the
5 Uniform Partition of Heirs Property Act. This Section specifies varying alternatives
6 when no co-owner exercises the right to purchase, when only some co-owners
7 exercise the right to purchase and outstanding shares remain, and when no
8 outstanding shares remain.

9 (b) Subsection A of this Section is applicable when no co-owner exercises the
10 right to purchase. In that case, the court proceeds to partition the entire property
11 pursuant to R.S. 9:1150.6. Subsection A also applies if no co-owner exercises the
12 right to purchase a recalculated pro rata share pursuant to Subsection B, despite an
13 initial expression of interest in purchasing a pro rata share.

14 (c) Subsection B of this Section applies if some co-owners exercise the right
15 to purchase but outstanding shares remain. In that case, a co-owner who fails to send
16 notice of the exercise of his right to purchase relinquishes that right, and the other
17 co-owners shall be notified of the recalculated share and their ability to purchase the
18 recalculated share. A second consequence of failing to exercise the right to purchase
19 is that the relinquishing co-owner is thereafter omitted from any future opportunities
20 to purchase other interests in the property. This Subsection also provides a method
21 (based upon former R.S. 9:1113(B)(3) and (4)) by which pro rata shares in the
22 property are calculated and recalculated after co-owners elect not to purchase
23 recalculated pro rata shares.

24 (d) Subsection C of this Section applies when all of the co-owners exercise
25 the right to purchase or at least one co-owner has elected to purchase the property
26 and no outstanding shares remain. In that case, the court shall set a date for the
27 payment of the apportioned price by the purchasing co-owners.

28 §1150.5. Payment of purchase price of pro rata share

29 A. If none of the co-owners exercising the option to purchase a pro rata share
30 timely pays the apportioned price into the registry of the court, the court shall order
31 partition of the entire immovable pursuant to R.S. 9:1150.6.

32 B.(1) If one or more but not all of the co-owners exercising the option to
33 purchase a pro rata share fail to timely pay the apportioned price into the registry of
34 the court, then upon the expiration of the time period in R.S. 9:1150.4(C), each
35 co-owner who has failed to timely pay the apportioned price into the registry of the
36 court relinquishes the right to purchase. The relinquishment of the right to purchase
37 shall inure to the benefit of the remaining purchasing co-owners, who shall then be
38 entitled to purchase, by pro rata share, the unpaid-for shares made available by each
39 co-owner who relinquished the right to purchase. When a potential purchasing

co-owner relinquishes the right to purchase, the pro rata share of the unpaid-for shares shall be calculated among only the remaining purchasing co-owners, excluding the relinquishing co-owners. Once a co-owner fails to timely pay the apportioned price, that co-owner shall not be entitled to file any subsequent notice to purchase in the pending action. The petitioner shall send to each co-owner who paid the apportioned price written notice of all of the following:

(a) The right to purchase a portion of the unpaid-for share of the co-owner who did not pay the apportioned price.

(b) The price to be paid by each remaining co-owner as determined by multiplying the pro rata share of each co-owner as calculated pursuant to this Paragraph by the price of the unpaid-for share.

(c) The date on which the price shall be timely paid into the registry of the court, which shall be thirty days from the sending of the notice.

(2) The procedures provided in this Subsection shall continue until there are no unpaid-for shares or no purchasing co-owner exercises the option to purchase a pro rata share. The court may use its discretion in rounding the shares of the co-owners to the nearest hundredth share. If, after completion of the process in this Subsection, an unpurchased share in the immovable remains, the court shall order the sale of only the unpurchased share pursuant to R.S. 9:1150.7(B). With regard to the remainder of the immovable, the court shall issue an order transferring the remainder of the petitioner's share in the immovable to the purchasing co-owners and disburse the amounts received to the petitioner.

C. If all of the co-owners exercising the option to purchase their pro rata shares, or at least one co-owner exercising the option to purchase a pro rata share, timely pays the apportioned price into the registry of the court and no unpaid-for shares of the petitioner's interest remain, the court shall issue an order transferring the petitioner's share in the immovable to the purchasing co-owners and disburse the amounts received to the petitioner.

Revision Comments - 2025

(a) This Section is based upon former R.S. 9:1113(B) and Section 7 of the Uniform Partition of Heirs Property Act. This Section contemplates three distinct situations: (i) when none of the co-owners exercising the right to purchase property timely pays the apportioned price; (ii) when some but not all of the purchasing co-owners timely pay their apportioned price; and (iii) when all co-owners exercising the right to purchase property timely pay their apportioned price.

(b) Subsection A of this Section applies when no co-owner exercising the right to purchase the property pays the apportioned price to the court. In such a case, the entire property, not just the petitioner's share, is partitioned according to the procedure specified in R.S. 9:1150.6.

(c) Subsection B of this Section applies if some but not all of the co-owners exercising the right to purchase the property timely pay the apportioned price to the court. In that case, a co-owner who fails to pay the apportioned price relinquishes the right to purchase a pro rata share or any future shares in the property. This Subsection also provides a method (based upon former R.S. 9:1113(B)(3) and (4)) by which pro rata shares in the property are calculated and recalculated after co-owners either elect not to purchase additional shares or elect to purchase but fail to timely pay the apportioned price to the court. Importantly, under this Subsection, once a co-owner fails to pay the apportioned price, the co-owner is thereafter removed from any future opportunities to purchase additional shares of the property. Moreover, written notice must again be sent notifying the relevant parties of the right to purchase additional property and the procedure for doing so. Notice under this Subsection, however, is sent not to all co-owners, but only to those co-owners who have exercised the right to purchase the property and who have actually paid the apportioned price to the court. Finally, this Subsection also provides that if an unpurchased share remains after the process provided for in this Subsection, the unpurchased share shall be sold by an open-market sale, and the remaining interests shall be reallocated to the co-owners and the funds disbursed to the petitioner.

(d) Subsection C of this Section applies if all co-owners exercising the right to purchase pay the apportioned price into the registry of the court or at least one co-owner exercising the option to purchase a pro rata share timely pays the apportioned price into the registry of the court and no unpaid-for shares of the petitioner's interest remain. In such a case, the court shall issue an order reallocating the shares and distribute the amounts received to the petitioner.

§1150.6. Preference for partition in kind

A. When required by R.S. 9:1150.4(A) or 1150.5(A), the court shall order partition in kind of the immovable unless the court finds that partition in kind will result in manifest prejudice to the co-owners as a group.

B. In determining whether partition in kind may result in manifest prejudice to the co-owners as a group, the court shall consider the totality of all of the following factors and circumstances:

- (1) Whether the immovable practicably can be divided among the co-owners.
- (2) Whether partition in kind may apportion the immovable in such a way that the aggregate value of all of the lots is significantly lower than the value of the

immovable in a state of indivision, 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 immovable by a co-owner and one or more prior co-owners related by consanguinity or adoption to an existing co-owner.

(4) A co-owner's sentimental attachment to the immovable, including any attachment arising because the immovable has familial or other unique or special value to the co-owner.

(5) The lawful use being made of the immovable by a co-owner and the degree to which the co-owner may be harmed if the co-owner could not continue the same use of the immovable.

(6) The degree to which the co-owners have contributed their pro rata share of the immovable taxes, insurance, and other expenses associated with maintaining ownership of the immovable or have contributed to the physical improvement, maintenance, or upkeep of the immovable.

(7) Any other relevant factor.

C. If the court does not order partition in kind due to a finding of manifest prejudice to the co-owners as a group, the court shall order the sale of the immovable in accordance with R.S. 9:1150.7.

Revision Comments - 2025

(a) This Section is based upon Sections 8(a) and 9 of the Uniform Partition of Heirs Property Act. It applies only when another provision of this Part orders a partition in kind of the entire immovable. See, e.g., R.S. 9:1150.4(A) and 1150.5(A). This Section does not apply in instances in which only a fractional interest in the petitioner's share is left unpurchased. See, e.g., R.S. 9:1150.5(B)(2). In those cases, a court shall order an open-market sale of the unpurchased share pursuant to R.S. 9:1150.7(B).

(b) Unlike other laws regarding partition, this Section requires a court to consider a series of economic and noneconomic factors in assessing whether partition in kind would result in "manifest prejudice to the co-owners as a group." Traditional partition law favors partition in kind unless the thing to be partitioned is "insusceptible to partition in kind," in which case partition by licitation or private sale is conducted. See Civil Code Article 811.

§1150.7. Petitioner's right of purchase; alternatives to partition in kind

1 A. When the sale of the immovable is required by R.S. 9:1150.6(C), the
2 court shall allow the petitioner thirty days to purchase all of the other co-owners'
3 interests by paying into the registry of the court one hundred twenty-five percent of
4 the value of the other co-owners' interests as determined by multiplying the other
5 co-owners' fractional interests in the immovable by the fair market value of the
6 immovable. If the petitioner does so, the court shall issue an order transferring the
7 co-owners' shares in the immovable to the purchasing petitioner and disburse the
8 amount received to the co-owners in proportion to their interests and in the manner
9 provided in Code of Civil Procedure Article 4626.1.

10 B. If the petitioner declines to purchase the property pursuant to Subsection
11 A of this Section or if required by R.S. 9:1150.4(B) or 1150.5(B)(2), the court shall
12 order an open-market sale of the property unless the court finds that a sale by auction
13 would be more economically advantageous and in the best interest of the co-owners
14 as a group.

15 C. If the court orders an open-market sale and the parties agree on a
16 Louisiana licensed real estate broker to offer the property for sale, then the court
17 shall appoint the broker. If the parties do not agree, the court shall appoint an
18 independent, Louisiana licensed real estate broker to offer the property for sale on
19 the terms and conditions established by the court and at a price not lower than that
20 determined in accordance with R.S. 9:1150.2. The court shall establish reasonable
21 compensation to be paid to the broker.

22 D. If the broker obtains within a reasonable time an offer to purchase the
23 property for a price not lower than that determined in accordance with R.S. 9:1150.2,
24 then the court shall order a partition by private sale in accordance with Civil Code
25 Article 811 and Code of Civil Procedure Article 4607 et seq. If the broker does not
26 obtain within a reasonable time an offer to purchase the property for a price not
27 lower than that determined in accordance with R.S. 9:1150.2, then the court may do
28 any of the following:

29 (1) Approve the highest outstanding offer, if any.

(2) Redetermine the value of the property and order that the property
continue to be offered for an additional time.

(3) Order that the property be sold by auction.

E. Sales by auction shall be conducted in accordance with R.S. 9:3151 et seq.
and Code of Civil Procedure Article 4607 et seq.

Revision Comments - 2025

(a) This Section is based upon Section 10 of the Uniform Partition of Heirs Property Act. Subsection A of this Section, however, differs from the uniform act insofar as it allows the petitioner the right to purchase the property if the co-owners decline to exercise their rights to purchase the petitioner's share. In order to avoid the property being sold on the open market, the petitioner may, but is not required to, purchase the property at a premium of one hundred twenty-five percent of the fair market value of the other co-owners' interests. If the petitioner declines to purchase the property at a premium pursuant to Subsection A, the petitioner may still purchase the immovable at the open-market sale or at auction pursuant to Subsections B through E of this Section.

(b) Although the term "immovable" has been consistently used throughout this Part, Subsections B through E of this Section employ the term "property" in recognition of the fact that an open-market or auction sale of the entire immovable may occur or, pursuant to R.S. 9:1150.5(B), a sale of only an unpurchased or an unpaid-for share of the immovable may occur. The term "property" is broad enough to include both the entire corporeal immovable and any incorporeal shares or interests in the immovable.

(c) Under this Section, the fair market value of the property is determined "in accordance with R.S. 9:1150.2." In some instances, this phrase should be understood to refer to the fair market value of the entire immovable, but in others, it refers to the applicable share of the property.

(d) If the property is offered for sale by a real estate broker, the broker must be licensed pursuant to R.S. 37:1430 et seq. If the parties do not agree upon a licensed broker, the court shall appoint an independent licensed broker to offer the property for sale. In either case, the property must not be offered for a price lower than the fair market value of the property. The court has discretion in setting a reasonable fee to be paid to the broker.

(e) Subsection D of this Section establishes the procedures to be employed once the property is offered for sale. In the case in which an offer to purchase the property at the appropriate price is received, the sale shall be conducted pursuant to the usual procedures provided in the Civil Code and the Code of Civil Procedure. If an offer within a reasonable time and at the appropriate price is not received, then the court has discretion as to whether to allow the sale to proceed to the highest bidder, offer the property for sale for an additional time at a reassessed value, or allow a sale by auction.

§1150.8. Partition laws; applicability

The provisions of Title VII of Book II of the Civil Code, Title IX of Book VII
of the Code of Civil Procedure, and Chapter 10 of Title 31 of the Louisiana Revised

Statutes of 1950 remain applicable to the extent that they do not conflict with the provisions of this Part.

Revision Comments - 2025

This Section reaffirms that the existing laws on co-ownership in the Civil Code, the Code of Civil Procedure, and the Revised Statutes continue to apply to the co-ownership regime and the right of partition exercised under this Part, at least to the extent not otherwise displaced by this Part. Among the laws that are not displaced and that continue to apply are the laws regarding the effect of a partition on preexisting real rights. As a general matter, "[w]hen a thing held in indivision is partitioned in kind or by licitation, a real right burdening the thing is not affected." See Civil Code Article 812. On the other hand, "[w]hen a thing is partitioned by licitation, a mortgage, lien, or privilege that burdens the share of a co-owner attaches to his share of the proceeds of the sale." See Civil Code Article 815. See also R.S. 31:178 (limiting certain instances of partition in kind when land is burdened with mineral rights).

Section 5. Civil Code Articles 1290, 1291, 1295 through 1297, 1299 through 1301, 1305, 1306, 1308, 1310 through 1315, 1318 through 1321, 1329 through 1337, 1341 through 1367, 1370 through 1373, 1378, 1379, 1382, 1385 through 1396, 1399, and 1402 through 1414 are hereby repealed in their entirety.

Section 6. R.S. 9:1113 is hereby repealed in its entirety.

Section 7. The Louisiana State Law Institute is hereby directed to renumber Chapter 12 of Title I of Book III of the Civil Code, as amended and reenacted by Section 2 of this Act, sequentially starting with Article 1291 and ending with Article 1302.

Section 8. The provisions of Sections 1, 3, 4, and 6 of this Act shall become effective on January 1, 2026, and shall not apply to any action pending prior to January 1, 2026.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 175 Original

2025 Regular Session

Wilford Carter

Abstract: Provides for the partition of property.

Present law (C.C. Art. 811) provides that if one or more co-owners are absent, the court may order partition by private sale of a thing held indivision that is not susceptible to partition in kind.

Proposed law deletes present law due to the enactment of the Louisiana Uniform Partition of Heirs Property Act.

Present law (C.C. Art. 1292) provides for the undivided ownership of the property of a succession.

Proposed law retains the principle and modernizes the language in present law.

Present law (C.C. Art. 1293) provides for the partition of an intestate succession.

Proposed law retains the principle and modernizes the language in present law.

Present law (C.C. Art. 1302) provides that there is no need for the partition of a testate succession when the testator has expressly allocated assets.

Proposed law retains the principle and modernizes the language in present law.

Present law (C.C. Art. 1307) provides for partition among heirs and legatees.

Proposed law retains the principle and modernizes the language in present law.

Present law (C.C. Art. 1309) provides for partition between possessors in common.

Proposed law retains the principle and modernizes the language in present law.

Present law (C.C. Art. 1325) provides for the use of an inventory for the basis of the partition unless an appraisal is demanded.

Proposed law retains the principle and modernizes the language in present law and additionally provides for the use of a detailed descriptive list.

Present law (C.C. Art. 1326) provides for the ordering of a new appraisal.

Proposed law retains the principle and modernizes the language in present law.

Present law (C.C. Art. 1328) provides for a summary proceeding for an action of partition with the least possible delay.

Proposed law provides that partition proceedings shall be ordinary proceedings but retains the preference provided by present law over other ordinary proceedings.

Present law (C.C. Art. 1380) provides for subsequent discovery of property and the amendment of the partition.

Proposed law retains the principle and modernizes the language in present law.

Present law (C.C. Art. 1384) provides reciprocal warranties between coheirs against disturbance and eviction.

Proposed law retains the principle and modernizes the language in present law.

Present law (C.C. Art. 1400) provides for provisional partitions involving minors, interdicts, and absent persons and for the right to demand a new partition.

Proposed law provides for the nullity and rescission of partitions on the same grounds as a contract of sale or for lesion.

Present law (C.C. Art. 1401) provides for supplementary partitions for the omission of a thing.

Proposed law retains the principle and modernizes the language in present law.

Present law (C.C.P. Art. 81) provides for the actions that shall be brought within a succession proceeding.

Proposed law retains present law and makes technical corrections.

Present law (C.C.P. Art. 4622) provides for petitions for the partition of property between co-owners.

Proposed law deletes a cross-reference.

Present law (C.C.P. Art. 4624) provides for the publication of notice of partition proceedings.

Proposed law retains present law and additionally requires that the notice be affixed to at least one prominent location on the immovable.

Present law (R.S. 9:1113) provides for the partition of certain immovables when a petition is filed by a co-owner or co-owners owning either an aggregate interest of 15% or less of the immovable property or an aggregate interest of 20% or less of the immovable property if there was past ownership of the whole immovable by a common ascendant.

Present law requires the court to allow the remaining co-owners to purchase at private sale the petitioners' shares at a price determined by a court-appointed appraiser.

Proposed law repeals present law and enacts the La. Uniform Partition of Heirs Property Act (R.S. 9:1150-1150.8).

Proposed law (R.S. 9:1150) provides a short title.

Proposed law (R.S. 9:1150.1) provides that the La. Uniform Partition of Heirs Property Act shall be applicable when a petition to partition a corporeal immovable is filed by a co-owner or co-owners owing an aggregate interest of less than 50% and 20% or more of the co-owners are related or 20% or more of the remaining interest in the immovable is owned by co-owners who are related.

Proposed law (R.S. 9:1150.2) provides for the calculation of the fair market value of the immovable, which shall be appraised by an independent, La. licensed real estate appraiser.

Proposed law (R.S. 9:1150.3) provides for a preference for the remaining co-owners to purchase the petitioner's share of the immovable at a private sale and requires the co-owners to file written notice with the court of their intention to exercise the right.

Proposed law (R.S. 9:1150.4) provides varying alternatives for partition when no co-owners exercise the right to purchase, when some but not all of the co-owners exercise the right, and when no outstanding shares remain.

Proposed law (R.S. 9:1150.5) provides for the payment of the purchase price into the registry of the court by the co-owners exercising the right to purchase the immovable and provides varying alternatives when none of the co-owners timely pay, when some but not all timely pay, and when all of the co-owners timely pay their apportioned price.

Proposed law (R.S. 9:1150.6) provides a preference for partition in kind when none of the co-owners exercise the option to purchase a share of the petitioner's interest and when none of the co-owners who exercised the option actually timely pay the price into the registry of the court.

Proposed law (R.S. 9:1150.7) provides alternatives to partition in kind in certain circumstances, including allowing the petitioner to purchase all of the other co-owners'

interests for a premium of 125% of the value or ordering an open-market sale or sale by auction.

Proposed law (R.S. 9:1150.8) provides that existing laws on co-ownership and partition continue to apply to the extent that they are not displaced by the provisions of the Louisiana Uniform Partition of Heirs Property Act.

Present law (C.C. Arts. 1290, 1291, 1295-1297, 1299-1301, 1305, 1306, 1308, 1310-1315, 1318-1321, 1329-1337, 1341-1367, 1370-1373, 1378, 1379, 1382, 1385-1396, 1399, 1402-1414) provides antiquated partition of successions rules from the 1825 and 1870 Civil Codes.

Proposed law repeals present law.

Proposed law provides a special effective date of January 1, 2026, for the La. Uniform Partition of Heirs Property Act.

(Amends C.C. Arts. 811, 1292, 1293, 1302, 1307, 1309, 1325, 1326, 1328, 1380, 1384, 1400, and 1401 and C.C.P. Arts. 81, 4622(B)(1)(b) and 4624; Adds R.S. 9:1150-1150.8; Repeals C.C. Arts. 1290, 1291, 1295-1297, 1299-1301, 1305, 1306, 1308, 1310-1315, 1318-1321, 1329-1337, 1341-1367, 1370-1373, 1378, 1379, 1382, 1385-1396, 1399, 1402-1414 and R.S. 9:1113)