

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE DRH30135-MEz-39 (2/25)

Short Title: Partition Sales/Commrs., Sellers, Buyers.

(Public)

Sponsors: Representative Bryant.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO PROHIBIT ATTORNEYS REPRESENTING PARTIES IN A PARTITION
3 ACTION FROM SERVING AS COMMISSIONERS TO DIVIDE THE LAND, EXCEPT
4 BY CONSENT OF THE PARTIES, AND TO SPECIFY WHO MAY NOT HOLD A
5 PARTITION SALE OF PROPERTY AND WHO MAY NOT PURCHASE PROPERTY
6 IN A PARTITION SALE, AS RECOMMENDED BY THE PARTITION SALES STUDY
7 COMMITTEE.

8 The General Assembly of North Carolina enacts:

9 SECTION 1. G.S. 46-7 reads as rewritten:

10 "§ 46-7. **Commissioners appointed.**

11 The superior court shall appoint three disinterested commissioners to divide and apportion
12 such real estate, or so much thereof as the court may deem best, among the several tenants in
13 common, or joint tenants. Provided, in cases where the land to be partitioned lies in more than
14 one county, then the court may appoint such additional commissioners as it may deem
15 necessary from counties where the land lies other than the county where the proceedings are
16 instituted. For purposes of this section, attorneys who currently represent the parties in the
17 pending partition proceeding and attorneys who have previously represented the parties in a
18 related partition proceeding are not "disinterested" and cannot serve as commissioners, except
19 by consent of the parties."

20 SECTION 2.(a) G.S. 46-31 reads as rewritten:

21 "§ 46-31. ~~Clerk not to appoint self, assistant or deputy to sell real property.~~ **Who may not**
22 **hold sale.**

23 ~~No clerk of the superior court shall appoint himself or his assistant or deputy to make sale~~
24 ~~of any property in any proceeding before him.~~ The following persons shall not sell or be
25 appointed to sell the property in a partition sale under Article 2 of Chapter 46 of the General
26 Statutes:

- 27 (1) The clerk of superior court, the clerk's assistant clerk, or the clerk's deputy
28 clerk if there has been a proceeding before that clerk of court.
29 (2) Attorneys who currently represent the parties in the pending partition
30 proceeding.
31 (3) Attorneys who have previously represented the parties in a related partition
32 proceeding."

33 SECTION 2.(b) Article 4 of Chapter 46 is amended by adding a new section to

34 read:

35 "§ 46-31.1. Ineligible purchasers.



1 The following persons are not eligible to purchase land in a partition sale under Article 2 of
2 Chapter 46 of the General Statutes:

3 (1) Attorneys who currently represent the parties in the pending partition
4 proceeding or the attorneys' agents.

5 (2) Attorneys who have previously represented the parties in a related partition
6 proceeding or the attorneys' agents.

7 (3) Commissioners who have been involved in the partition proceedings at any
8 time or the commissioners' agents.

9 (4) Appraisers who have been involved in the partition proceedings at any time
10 or the appraisers' agents."

11 **SECTION 3.** This act becomes effective October 1, 2009.