

# SENATE BILL NO. 497

## 101ST GENERAL ASSEMBLY

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INTRODUCED BY SENATORS HOUGH AND HEGEMAN.

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ADRIANE D. CROUSE, Secretary

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### AN ACT

To repeal section 528.725, RSMo, and to enact in lieu thereof one new section relating to the partition of property among heirs, with an emergency clause.

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*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Section 528.725, RSMo, is repealed and one new  
2 section enacted in lieu thereof, to be known as section 528.725,  
3 to read as follows:

528.725. 1. If any cotenant has requested partition  
2 by sale, after the determination of value under section  
3 528.720, the court shall send notice to the parties that any  
4 cotenant, except a cotenant that requested partition by  
5 sale, may buy all the interests of the cotenants that  
6 requested partition by sale.

7 2. No later than forty-five days after the notice is  
8 sent under subsection 1 of this section, any cotenant,  
9 except a cotenant that requested partition by sale, may give  
10 notice to the court that it elects to buy all the interests  
11 of the cotenants that requested partition by sale.

12 3. The purchase price for each of the interests of a  
13 cotenant that requested partition by sale is the value of  
14 the entire parcel determined under section 528.720  
15 multiplied by the cotenant's fractional ownership of the  
16 entire parcel.

17 4. After expiration of the period in subsection 2 of  
18 this section, the following rules shall apply:

19           (1) If only one cotenant elects to buy all the  
20 interests of the cotenants that requested partition by sale,  
21 the court shall notify all the parties of that fact;

22           (2) If more than one cotenant elects to buy all the  
23 interests of the cotenants that requested partition by sale,  
24 the court shall allocate the right to buy those interests  
25 among the electing cotenants based on each electing  
26 cotenant's existing fractional ownership of the entire  
27 parcel divided by the total existing fractional ownership of  
28 all cotenants electing to buy and send notice to all the  
29 parties of that fact and of the price to be paid by each  
30 electing cotenant;

31           (3) If no cotenant elects to buy all the interests of  
32 the cotenants that requested partition by sale, the court  
33 shall send notice to all the parties of that fact and  
34 resolve the partition action under subsection 1 or 2 of  
35 section 528.730.

36           5. If the court sends notice to the parties under  
37 subdivision (1) or (2) of subsection 4 of this section, the  
38 court shall set a date, no sooner than sixty days after the  
39 date the notice was sent, by which electing cotenants shall  
40 pay their apportioned price into the court. After this  
41 date, the following rules shall apply:

42           (1) If all electing cotenants timely pay their  
43 apportioned price into court, the court shall issue an order  
44 reallocating all the interests of the cotenants and disburse  
45 the amounts held by the court to the persons entitled to  
46 them;

47           (2) If no electing cotenant timely pays its  
48 apportioned price, the court shall resolve the partition  
49 action under subsection 1 or 2 of section 528.730 as if the

50 interests of the cotenants that requested partition by sale  
51 were not purchased; or

52 (3) If one or more but not all of the electing  
53 cotenants fail to pay their apportioned price on time, the  
54 court, on motion, shall give notice to the electing  
55 cotenants that paid their apportioned price of the interest  
56 remaining and the price for all that interest.

57 6. No later than twenty days after the court gives  
58 notice under subdivision (3) of subsection 5 of this  
59 section, any cotenant that paid may elect to purchase all of  
60 the remaining interest by paying the entire price into the  
61 court. After the twenty-day period, the following rules  
62 shall apply:

63 (1) If only one cotenant pays the entire price for the  
64 remaining interest, the court shall issue an order  
65 reallocating the remaining interest to that cotenant. The  
66 court shall promptly issue an order reallocating the  
67 interests of all of the cotenants and disburse the amounts  
68 held by the court to the persons entitled to such amounts;

69 (2) If no cotenant pays the entire price for the  
70 remaining interest, the court shall resolve the partition  
71 action under subsection 1 or 2 of section 528.730 as if the  
72 interests of the cotenants that requested partition by sale  
73 were not purchased; or

74 (3) If more than one cotenant pays the entire price  
75 for the remaining interest, the court shall reapportion the  
76 remaining interest among those paying cotenants based on  
77 each paying cotenant's original fractional ownership of the  
78 entire parcel divided by the total original fractional  
79 ownership of all cotenants that paid the entire price for  
80 the remaining interest. The court shall promptly issue an  
81 order reallocating all of the cotenants' interests, disburse

82 the amounts held by the court to the persons entitled to  
83 such amounts, and promptly refund any excess payment held by  
84 the court.

85 7. No later than forty-five days after the court sends  
86 notice to the parties under subsection 1 of this section,  
87 any cotenant entitled to buy an interest under this section  
88 may request the court to authorize the sale as part of the  
89 pending action of the interests of cotenants named as  
90 defendants and served with the complaint but that did not  
91 appear in the action.

92 8. If the court receives a timely request under  
93 subsection 7 of this section, the court, after hearing, may  
94 deny the request or authorize the requested additional sale  
95 on such terms as the court determines are fair and  
96 reasonable, subject to the following limitations:

97 (1) A sale authorized under this subsection may occur  
98 only after the purchase prices for all interests subject to  
99 sale under subsections 1 to 6 of this section have been paid  
100 into court and those interests have been reallocated among  
101 the cotenants as provided in subsections 1 to 6 of this  
102 section; and

103 (2) The purchase price for the interest of a  
104 nonappearing cotenant is based on the court's determination  
105 of value under section 528.720.

Section B. Because of the need to ensure the equitable  
2 disposition of family property, section A of this act is  
3 deemed necessary for the immediate preservation of the  
4 public health, welfare, peace, and safety, and is hereby  
5 declared to be an emergency act within the meaning of the  
6 constitution, and section A of this act shall be in full  
7 force and effect upon its passage and approval.

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