

Effective 5/4/2022

78B-6-1275 Cotenant buyout.

- (1) If any cotenant requests a partition by sale, after the determination of value under Section 78B-6-1274, the court shall send notice to the parties that any cotenant, except a cotenant that requested the partition by sale, may buy all the interests of the cotenants that requested partition by sale.
- (2) No later than 45 days after on the day on which the notice is sent under Subsection (1), any cotenant, except a cotenant that requested partition by sale, may give notice to the court that the cotenant elects to buy all the interests of the cotenants that requested partition by sale.
- (3) The purchase price for each of the interests of a cotenant that requested partition by sale is the value of the entire parcel determined under Section 78B-6-1274 multiplied by the cotenant's fractional ownership of the entire parcel.
- (4) After expiration of the 45-day period described in Subsection (2):
 - (a) if only one cotenant elects to buy all the interests of the cotenants that requested partition by sale, the court shall notify all the parties of the fact that the one cotenant seeks to buy all the interests of the other cotenants;
 - (b) if more than one cotenant elects to buy all the interests of the cotenants that requested partition by sale, the court shall:
 - (i) allocate the right to buy all the interests of the cotenants among the electing cotenants based on each electing cotenant's existing fractional ownership of the entire parcel divided by the total existing fractional ownership of all cotenants electing to buy; and
 - (ii) send notice to all the parties of that fact and of the price to be paid by each electing cotenant; or
 - (c) if no cotenant elects to buy all the interests of the cotenants that requested partition by sale, the court shall send notice to all the parties that no cotenant elects to buy all the interests of the cotenants and resolve the partition action under Subsections 78B-6-1276(1) and (2).
- (5)
 - (a) If the court sends notice to the parties under Subsection (4)(a) or (b), the court shall set a date, no sooner than 60 days after the day on which the notice was sent, by which electing cotenants shall pay each cotenant's apportioned price to the court.
 - (b) After the day described in Subsection (5)(a):
 - (i) if all electing cotenants timely pay each cotenant's apportioned price to the court, the court shall issue an order reallocating all the interests of the cotenants and disburse the amounts held by the court to the persons entitled to the amounts;
 - (ii) if no electing cotenant timely pays each cotenant's apportioned price, the court shall resolve the partition action under Subsections 78B-6-1276(1) and (2) as if the interests of the cotenants that requested partition by sale were not purchased; or
 - (iii) if one or more but not all of the electing cotenants fail to pay a cotenant's apportioned price on time, the court, upon a motion, shall give notice to the electing cotenants that paid the cotenant's apportioned price of the interest remaining and the price for all that interest.
- (6)
 - (a) No later than 20 days after the day on which the court gives notice in accordance with Subsection (5)(b)(iii), any cotenant that paid may elect to purchase all of the remaining interest by paying the entire price to the court.
 - (b) After the 20-day period described in Subsection (6)(a):
 - (i) if only one cotenant pays the entire price for the remaining interest, the court shall:
 - (A) issue an order reallocating the remaining interest to that cotenant;
 - (B) issue an order promptly reallocating the interests of all of the cotenants; and

- (C) disburse the amounts held by the court to the persons entitled to the amounts;
- (ii) if no cotenant pays the entire price for the remaining interest, the court shall resolve the partition action under Subsections 78B-6-1276(1) and (2) as if the interests of the cotenants that requested partition by sale were not purchased; or
- (iii) if more than one cotenant pays the entire price for the remaining interest, the court shall:
 - (A) reapportion the remaining interest among the paying cotenants, based on each paying cotenant's original fractional ownership of the entire parcel divided by the total original fractional ownership of all cotenants that paid the entire price for the remaining interest;
 - (B) issue an order promptly reallocating all of the cotenants' interests;
 - (C) disburse the amounts held by the court to the persons entitled to the amounts; and
 - (D) promptly refund any excess payment held by the court.
- (7) No later than 45 days after the day on which the court sends notice to the parties in accordance with Subsection (1), any cotenant entitled to buy an interest under this section may request the court to authorize the sale, as part of the pending action, of the interests of cotenants named as defendants and served with the complaint but that did not appear in the action.
- (8) If the court receives a timely request under Subsection (7), the court, after a hearing, may deny the request or authorize the requested additional sale on such terms as the court determines are fair and reasonable if:
 - (a) a sale authorized under this Subsection (8) occurs only after the purchase prices for all interests subject to sale under Subsections (1) through (6) have been paid to the court and those interests have been reallocated among the cotenants as provided in Subsections (1) through (6); and
 - (b) the purchase price for the interest of a nonappearing cotenant is based on the court's determination of value of the property under Section 78B-6-1274.

Enacted by Chapter 304, 2022 General Session