

Effective 5/4/2022

78B-6-1278 Open-market sale, sealed bids, or auction.

- (1) If the court orders a sale of heirs' property, the sale must be an open-market sale unless the court finds that a sale by sealed bids or an auction would be more economically advantageous and in the best interest of the cotenants as a group.
- (2)
 - (a) If the court orders an open-market sale and the parties agree on a real estate broker licensed in this state to offer the property for sale no later than 10 days after the day on which the court entered the order, the court shall appoint the broker and establish a reasonable commission.
 - (b) If the parties do not agree on a broker during the 10-day period described in Subsection (2) (a), the court shall appoint a disinterested real estate broker licensed in this state to offer the property for sale and shall establish a reasonable commission.
 - (c) The broker shall offer the property for sale in a commercially reasonable manner at a price no lower than the determination of value of the property and on the terms and conditions established by the court.
- (3) If the broker appointed under Subsection (2) obtains within a reasonable time an offer to purchase the property for at least the determination of value:
 - (a) the broker shall comply with the reporting requirements in Section 78B-6-1279; and
 - (b) the sale may be completed in accordance with state law other than this part.
- (4) If the broker appointed under Subsection (2) does not obtain within a reasonable time an offer to purchase the property for at least the determination of value, the court, after a hearing, may:
 - (a) approve the highest outstanding offer if there is an outstanding offer;
 - (b) redetermine the value of the property and order that the property continue to be offered for an additional time; or
 - (c) order that the property be sold by sealed bids or at an auction.
- (5)
 - (a) If the court orders a sale by sealed bids or an auction, the court shall set terms and conditions of the sale.
 - (b) If the court orders an auction, the auction shall be conducted in accordance with Section 78B-6-1224.
- (6) If a purchaser is entitled to a share of the proceeds of the sale, the purchaser is entitled to a credit against the price in an amount equal to the purchaser's share of the proceeds.

Enacted by Chapter 304, 2022 General Session