

SENATE BILL No. 543

DIGEST OF INTRODUCED BILL

Citations Affected: IC 32-17-4.

Synopsis: Partition. Establishes a new procedure for partitioning property that: (1) requires a court to refer the matter to mediation; and (2) requires the court to order the property sold at auction if the parties are not able to reach an agreement during mediation. Repeals superseded provisions.

Effective: July 1, 2011.

Steele

January 20, 2011, read first time and referred to Committee on Corrections, Criminal, and Civil Matters.

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First Regular Session 117th General Assembly (2011)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2010 Regular Session of the General Assembly.

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SENATE BILL No. 543



A BILL FOR AN ACT to amend the Indiana Code concerning property.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 32-17-4-2 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2. (a) A person
3 described in section 1(a) of this chapter may file a petition to compel
4 partition in the circuit court or court having probate jurisdiction of the
5 county in which the land or any part of the land is located.

6 (b) A petition filed under subsection (a) must contain the following:

- 7 (1) A description of the premises.
- 8 (2) The rights and titles in the land of the parties interested.

9 (c) **At the time a person files a petition under this chapter, the**
10 **person shall cause a title search to be made regarding the land that**
11 **is the subject of the partition. The person shall file a copy of the**
12 **results of the title search with the court.**

13 SECTION 2. IC 32-17-4-2.5 IS ADDED TO THE INDIANA CODE
14 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY
15 1, 2011]: **Sec. 2.5. (a) Not later than thirty (30) days after a petition**
16 **to compel partition has been filed, the court shall refer the matter**
17 **to mediation in accordance with the Indiana rules of alternative**



1 **dispute resolution. In its order referring the matter for mediation,**
 2 **the court shall advise the parties that the real property will be sold**
 3 **at auction if the parties are unable to reach an agreement not later**
 4 **than sixty (60) days after the order is issued.**

5 **(b) If:**

6 **(1) less than sixty (60) days after the date the order was issued**
 7 **under subsection (a), the parties report to the court that they**
 8 **are unable to reach an agreement concerning some or all of**
 9 **the property; or**

10 **(2) the parties have not reached an agreement concerning**
 11 **some or all of the property not later than sixty (60) days after**
 12 **the order was issued under subsection (a);**

13 **the court shall immediately order the property sold at auction and**
 14 **the proceeds divided. If the parties have reached an agreement**
 15 **concerning part of the property, the court shall order the sale at**
 16 **auction of only those parcels of property with respect to which an**
 17 **agreement has not been reached.**

18 **(c) If the court orders the property sold at auction, the court**
 19 **shall grant the parties thirty (30) days after the date of the order**
 20 **to select an auctioneer. If the parties are unable to select an**
 21 **auctioneer not more than thirty (30) days after the court orders the**
 22 **property to be sold, the court shall order the sheriff to sell the**
 23 **property in the same manner that property is sold at execution**
 24 **under IC 34-55-6.**

25 **(d) The court shall order the property to be sold not earlier than**
 26 **thirty (30) or more than sixty (60) days after the date on which:**

27 **(1) the parties select an auctioneer; or**

28 **(2) the court orders the sheriff to sell the property;**

29 **whichever is applicable.**

30 **(e) At the time the court orders the property to be sold, the**
 31 **court shall notify all lienholders and other persons with an interest**
 32 **in the property, as identified in the title search required under**
 33 **section 2 of this chapter, of the sale. The property shall be sold free**
 34 **and clear of all liens and special assessments except prescriptive**
 35 **easements and easements of record, with any sum secured by a lien**
 36 **or special assessment to be satisfied from the proceeds of the sale.**

37 **(f) The person who causes a title search to be conducted under**
 38 **section 2 of this chapter is entitled to indemnification from the**
 39 **proceeds of the sale.**

40 **(g) Any person who has paid a tax or special assessment on the**
 41 **property is entitled to pro rata indemnification from the proceeds**
 42 **of the sale.**

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1 **(h) Any person may advertise a sale under this section at the**
2 **person's own expense, but is not entitled to indemnification for**
3 **these expenses.**

4 **(i) After deduction of the amounts described in subsections (e),**
5 **(f), and (g) and the reasonable expenses of the sale, the court shall**
6 **divide the proceeds of the sale among the remaining property**
7 **owners in proportion to their ownership interest.**

8 SECTION 3. THE FOLLOWING ARE REPEALED [EFFECTIVE
9 JULY 1, 2011]: IC 32-17-4-3; IC 32-17-4-4; IC 32-17-4-5;
10 IC 32-17-4-6; IC 32-17-4-7; IC 32-17-4-8; IC 32-17-4-9;
11 IC 32-17-4-10; IC 32-17-4-11; IC 32-17-4-12; IC 32-17-4-13;
12 IC 32-17-4-14; IC 32-17-4-15; IC 32-17-4-16; IC 32-17-4-17;
13 IC 32-17-4-18; IC 32-17-4-19; IC 32-17-4-20; IC 32-17-4-21;
14 IC 32-17-4-22; IC 32-17-4-24;

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