February 8, 2011

SENATE BILL No. 543

DIGEST OF SB 543 (Updated February 3, 2011 4:47 pm - DI 106)

Citations Affected: IC 32-17.

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 Repeals superseded provisions.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.
February 7, 2011, reported favorably — Do Pass.

C o p y

February 8, 2011

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.

C o p y

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:

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

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

(1) A description of the premises.

(2) The rights and titles in the land of the parties interested.

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

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

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

(b) If:

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

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

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

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

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

(1) the parties select an auctioneer; or

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

whichever is applicable.

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

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

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

C o p y

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

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

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

C o p y

COMMITTEE REPORT

Madam President: The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred Senate Bill No. 543, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 543 as introduced.)

STEELE, Chairperson

Committee Vote: Yeas 8, Nays 0.

C o p y