

STATE OF OKLAHOMA

1st Session of the 45th Legislature (1995)

HOUSE BILL NO. 1369

By: Davis

AS INTRODUCED

An Act relating to civil procedure; amending 12 O.S. 1991, Section 1509, which relates to procedures for partition of property; modifying reference for purposes of transmitting certain report and notice; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 12 O.S. 1991, Section 1509, is amended to read as follows:

Section 1509. A. The commissioners shall make partition of the property among the parties according to their respective interests, if such partition can be made without manifest injury. But if such partition cannot be made, the commissioners shall make a valuation and appraisal of the property. They shall make a report of their proceedings to the court, forthwith. For the purpose of this section the term "party" shall mean one who has been adjudged to own an undivided interest in the property involved in the action.

B. Within ten (10) days after the report of commissioners is filed with the court clerk, the attorney for the plaintiff shall forward by certified mail to the attorney of record for ~~each~~ every other party in the case and to each party not represented by an attorney, a copy of the commissioners' report and a notice stating

that the time limit for filing an exception or an election to take the property at the appraisalment, if partition cannot be made, is not later than twenty (20) days from the date the report was filed. Before the expiration of the said twenty (20) days, the court may fix a different and longer period for the filing of an election. The mailing of notice as required herein shall be certified by affidavit to be filed, attached to the original notice. If a party has been served by publication, the notice of said time limit shall be published in one issue of a newspaper qualified to publish legal notices, at least ten (10) days prior to the expiration of the date to file exception or election.

C. The time limit for filing an exception or an election to take property at appraisalment, as prescribed in subsection B of this section, shall be calculated from the date the report of the commissioners is filed in the case. On failure of the attorney for plaintiff to give notice within the time prescribed in subsection B of this section, the court, on application of any party, may extend the time for filing an exception or an election for the period not to exceed twenty (20) days from the date the application is heard.

SECTION 2. This act shall become effective November 1, 1995.

45-1-5759

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