

Bill Summary
1st Session of the 57th Legislature

Bill No.:	SB 855
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Bill Analysis

SB 855 creates the Uniform Partition of Heirs Property Act. The measure will apply to partition actions filed on and after November 1, 2019. The measure requires the court to determine if property is heirs' property and provides for the method of the court to determine the property's value. The court may appoint a group of commissioners or an appraiser with no stake in the outcome of the proceedings to evaluate the property. If all cotenants have agreed to the value of the property or to another method of valuation, the court shall adopt that value.

Following a determination of the property's value, a cotenant of the property may request a sale of the property and the court shall provide notice 45 days in advance. Any cotenant except a cotenant that requested partition by sale may give notice to the court that it elects to buy all the interests of the cotenants that requested partition by sale. The purchase price will be based on the value arrived at by the court appointed appraiser. A cotenant must purchase all interests in the property. If no cotenant purchases every interest in the property, the court will proceed as if the interests of the cotenants that requested partition by sale were not purchased. If more than one cotenant pays the price for all interests in the property, the court shall reapportion the remaining interest among those paying cotenants.

If all the interests are not purchased, the court may order or cotenants may request a partition in kind. The court will then divide the interest of the property among the cotenants that were not bought out. Before dividing property in kind, however, the court must determine whether the property can be evenly divided, whether partition would lower the overall value of the property as compared to selling it as a whole, evidence of collective ownership, and contributions to the property's upkeep. The court may order the sale of the property if it is determined unfeasible to divide the property and shall split the proceeds according to the provisions of this measure.

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