

BILL ANALYSIS

S.B. 499
By: West
Judiciary & Civil Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Interested parties note that many families in Texas own real property as cotenants through intestate succession and contend that the current partition process for such property, in the name of expediency and simplicity, does not adequately account for ancestral or historical factors, aspects such as the property providing shelter for a family of limited means, or the fair market value of the property. S.B. 499 seeks to provide a remedy through adoption of the Uniform Partition of Heirs' Property Act.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

S.B. 499 amends the Property Code to require a court, in an action to partition real property, to determine whether the property is heirs' property and on such a determination to require the property to be partitioned as provided for by the bill unless all of the cotenants otherwise agree in a record. The bill defines "heirs' property" as real property held in tenancy in common that satisfies the following requirements as of the filing of a partition action: there is no agreement in a record binding all the cotenants that governs the partition of the property; one or more of the cotenants acquired title from a relative, whether living or deceased; and 20 percent or more of the interests are held by cotenants who are relatives, 20 percent or more of the interests are held by an individual who acquired title from a relative, whether living or deceased, or 20 percent or more of the cotenants are relatives. The bill expressly supplements statutory provisions relating to the partition of real property and the Texas Rules of Civil Procedure governing partition of real property, unless an action is governed by the bill's provisions, in which case the bill supersedes any such provisions or rules that are inconsistent with the bill's provisions.

S.B. 499 sets out provisions relating to the service of notice of a petition in a partition action, the appointment of commissioners by the court under the Texas Rules of Civil Procedure to partition property in accordance with a decree of partition, the determination of value of heirs' property subject to a partition action, cotenant buyout of the property interests of cotenants requesting partition by sale, and partition alternatives and considerations for partition of property in kind under certain circumstances. The bill provides for the sale of heirs' property by open-market sale, sealed bids, or auction and requires a broker appointed to offer heirs' property for open-market sale to file a report regarding that sale.

S.B. 499 establishes that, in applying and construing its provisions, consideration must be given to the need to promote uniformity of the law with respect to the division of heirs' property among states that enact a law based on the Uniform Partition of Heirs' Property Act. The bill expressly modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act, with certain exceptions.

EFFECTIVE DATE

September 1, 2017.