

## **BILL ANALYSIS**

Senate Research Center

S.B. 600  
By: West  
Business & Commerce  
4/1/2025  
As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

When property is inherited without a will, it is split up among heirs in a form of ownership called tenancy in common. Each co-tenant owns an undivided fractional interest and has equal rights to use and enjoy the entire property. Additionally, co-tenants share equal rights to initiate a partition, which is legal action that forces the judicial sale or division of the property. These rights are present no matter the size of a tenant's ownership interest or the amount of time a tenant has owned their interest.

Often, unrelated parties, such as investors and developers, will locate distant heirs and offer to buy their interest. According to *Texas Monthly*, unrelated parties often use unscrupulous means to acquire an interest in heirs' property. Despite the use of unscrupulous means, once an interest is purchased, the unrelated parties have an unfettered ability to initiate a partition action, which usually results in a forced sale of the property. Because heirs' property is often owned by land-rich, cash-poor families, the court-sanctioned sale of the property usually results in the unrelated parties purchasing the property for well below market value.

In 2017, Texas enacted the Uniform Partition of Heirs' Property Act (UHPHA) to combat the issues that heirs' property owners were facing across the state. The UHPHA required the partitioning interest to notify the family of the partition action, gave families the option of buying out the partitioning interest, and attempted to ensure that the family received fair market value if their property was sold.

However, despite Texas' efforts to reform heirs' property law in 2017, families are still losing their ancestral land to partition actions initiated by unrelated third parties.

S.B. 600 will build on existing law to better protect families from the loss of their land through third party partition lawsuits. The bill's core protections fall into three different categories.

First, the bill will strengthen existing due process protections to ensure that families are located and notified when a partition action is filed. The bill would require the partitioner to use due diligence to identify and locate all known co-owners when a partition action is filed under Chapter 23 of the Property Code. The partitioner would have to notify the property's taxpayers, occupants, and known co-owners through service of a citation. The citation would include an heir's bill of rights that describes the process of a partition action and the rights that co-owners possess under the law. Additionally, the partitioner must also post a four-foot by four-foot weatherproof sign on the property that states it is the subject of a partition action. Moreover, to ensure that the protections under Chapter 23A are applied to all heirs' property cases, the partitioner would be required to state whether the property is heirs' property as defined by Chapter 23A of the Property Code. Finally, to ensure that all co-owners have been located, and that due diligence was exercised, the bill would require the court to appoint an attorney ad litem in any partition action initiated by an unrelated third party. The unrelated third party would be required to pay for the fees associated with the appointment of an attorney ad litem.

Second, the bill will create opportunities for partition actions to be resolved without forcing a sale of the property. First, upon the request of any party to the partition action, the bill would allow for the court to conduct a settlement conference. Upon notice of the conference, the parties would meet in the presence of the judge to negotiate a settlement. All parties would be required to negotiate in good faith. Additionally, when a third party initiates partition, the bill would allow

families to pay a lower buyout price. The buyout price would be set as the lower of (1) the fair market value of the partitioning interest or (2) the price the third party paid for the partitioning interest. Moreover, the bill would extend the buyout time to ninety days to ensure that families have the time to secure a loan. Finally, if a third party acquires a minority interest in heirs' property, the bill would prohibit them from initiating a partition action for ten years. If a partition action is initiated during the ten-year period, the bill would require the case to be dismissed with prejudice.

Finally, the bill will ensure that properties are sold for fair market value. First, if the judge appoints an appraiser, the bill will require the appraiser to be certified as a certified general appraiser. Second, the bill would allow the judge to appoint a second real estate broker if the first broker cannot secure a fair market offer.

This bill would strengthen existing due process protections, protect the ability of heirs to keep interests within the family, and ensure fair market value is given if their property is sold.

As proposed, S.B. 600 amends current law relating to the partition or voluntary sale of real property owned by certain cotenants and amends the Uniform Partition of Heirs' Property Act.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Chapter 23, Property Code, by adding Sections 23.0014, 23.0015, 23.0016, 23.0017, 23.0018, 23.0019, and 23.0025, as follows:

Sec. 23.0014. DEFINITIONS. Defines "heir cotenant," "heirs' property," "non-heir cotenant," and "relative."

Sec. 23.0015. REQUIREMENTS OF PETITION. (a) Requires that a petition to partition property meet the requirements in the Texas Rules of Civil Procedure, include a statement certifying whether the property is heirs' property, include the date that the plaintiff acquired their interest in the property, and include the plaintiff's percentage interest in the property.

(b) Requires that the petition, if a non-heir cotenant brings a partition action for heirs' property after December 31, 2025, and the non-heir cotenant acquired their interest in said property after December 31, 2025, also include a statement certifying whether the right of first refusal and notice of sale requirements in Section 5.254 have been met, the steps taken to exercise the due diligence required under Section 5.254, and the full name of the persons who received the notice required under Section 5.254.

Sec. 23.0016. CITATION; NOTICE OF HEIR'S BILLS OF RIGHTS; FORM. (a) Requires that citation of an action to partition real property be served by personal service or certified mail with return receipt requested on each of the following persons:

- (1) each joint owner of the property who is 16 years of age or older;
- (2) the parent, managing conservator, or guardian of each joint owner who is younger than 16 years of age;
- (3) each person who has paid any part of the property taxes on the property in any of the five years prior to the filing of the suit; and
- (4) each person residing on the property.

(b) Requires the plaintiff or plaintiff's attorney or agent to exercise due diligence to identify the name and residence of each person listed in Subsection (a) and notify the clerk of the court of the identified names and residences;

(c) Provides that the citation is not required to be served on a person listed in Subsection (a) if the person entered a court appearance in the action, the person is 16 years of age or older and waived citation or the person is younger than 16 years of age and the party's parent, managing conservator, guardian, attorney ad litem, or guardian ad litem waived citation.

(d) Requires that the service of the citation, if the name or residence of a person listed in Subsection (a) cannot be ascertained through the exercise of due diligence, be made by publication in accordance with the Texas Rules of Civil Procedure.

(e) Requires that the citation include a notice of heir's property rights utilizing the standardized form created by the Office of Court Administration of the Texas Judicial System (OCA) under Section 72.040, Government Code.

Sec. 23.0017. AFFIDAVIT. (a) Requires a plaintiff who files an action to partition real property to file with the court, no later than 20 days after the service of citation in the action is completed:

(1) a copy of any citation required by Chapter 23 (Partition) and the proof of delivery of service of the citation; and

(2) an affidavit sworn to by the plaintiff or a certificate signed by the plaintiff's attorney stating that the citation was served as required by this chapter, the name and address of each person to whom the citation was served, if the person's name and address are not shown on the proof of delivery, and if service of citation is waived.

(b) Provides that if the name or location of a person required to be served the citation under Section 23.0016 has not been ascertained:

(1) the affidavit is required to confirm that due diligence was taken to ascertain the person's name and residence and contain a statement of the actions taken to identify the name and residence of the person; and

(2) the court is required inquire into the sufficiency of the diligence taken to identify the person's name and residence and require any corrective actions needed to comply with this section.

Sec. 23.0018. ATTORNEY AD LITEM. (a) Requires the court to appoint an attorney ad litem in a partition action to represent the interests of any joint owners whose name or location is unknown.

(b) Requires the court to appoint an attorney ad litem in a partition action brought by a non-heir cotenant involving heirs' property to determine if there are any heir cotenants of the property who have not been identified and to locate any known heir cotenants who have not been served with the citation. Provides that pursuant to this subsection:

(1) the attorney ad litem is required to conduct a due diligence investigation to locate known heir cotenants and identify and locate potential unknown heir cotenants, including, but not limited to, reviewing deed records, contacting known family members, and utilizing other reasonable means;

(2) the court is required to dismiss the attorney ad litem upon a finding that the attorney ad litem completed a due diligence search for the name and location of all heir cotenants; and

(3) the fees for the attorney ad litem appointed under this subsection are required to be paid for by the non-heir cotenant.

Sec. 23.0019. NOTICE OF ACTION BY POSTING; TIME FOR FIRST HEARING. (a) Requires the plaintiff, not later than 10 days after bringing an action to partition property, to post, and maintain while the action is pending, a conspicuous sign on the property that is the subject of the action.

(b) Requires that the sign adhere to certain criteria.

(b) Authorizes the court to require the plaintiff to publish on the sign the name of the plaintiff and the known defendants.

(c) Requires the plaintiff to file with the court proof of posting the sign in compliance with this section not later than the 10th day after the date of posting.

(d) Prohibits the court from holding the first hearing in the action earlier than the 60th day after the date on which the plaintiff provides proof the sign is posted as required by this section.

Sec. 23.0025. DETERMINATION OF HEIRS' PROPERTY; APPLICABILITY; RELATION TO OTHER LAW. Requires the court, in an action to partition real property, after service of the citation is completed in compliance with this chapter, to hold a preliminary hearing to determine whether the property is heirs' property under Chapter 23A (Uniform Partition of Heirs' Property Act). Provides that, if the court determines that the property is heirs' property, the provisions of Chapter 23A apply unless all the cotenants otherwise agree in a written record.

SECTION 2. Amends Section 23A.002, Property Code, by adding Subdivisions (4-a) and (5-a) and amending Subdivision (5) to define "heir cotenant" and "non-heir cotenant" and to redefine "heirs' property."

SECTION 3. Amends the heading to Section 23A.003, Property Code, to read as follows:

Sec. 23A.003. RELATION TO OTHER LAW.

SECTION 4. Repealer: Section 23A.003(a) (relating to requiring the court, in an action to partition real property, to determine whether the property is heirs' property), Property Code.

SECTION 5. Repealer: Section 23A.004 (Service; Notice by Posting), Property Code.

SECTION 6. Amends Chapter 23A. Property Code, by adding Section 23A.0041, as follows:

Sec. 23A.0041. SETTLEMENT CONFERENCE. (a) Authorizes a party, if the court in a partition action determines that the property is heirs' property, to file a written request that the court hold a conference for the parties to engage in settlement discussions with respect to the parties' interests in the property.

(b) Requires the court, on the filing of a request for a settlement conference under this section, to:

(1) order the parties to participate in a settlement conference under this section; and

(2) send notice to the parties of the time and place at which the settlement conference will be held, the purpose of the settlement conference, and the requirements of this section.

(c) Requires OCA to prescribe a form to be used to provide the notice required by Subsection (b). Requires that notice provided under Subsection (b) be in the form prescribed.

(d) Requires the plaintiff, not later than the 20th day after the date the court sends notice under Subsection (b)(2), to post a copy of that notice on the sign required under Section 23A.0041.

(e) Provides that the court:

(1) is required to hold a settlement conference under this section not later than the 60th day after the date the request for the settlement conference is filed or on a date agreed to by all parties; and

(2) is authorized to adjourn or reconvene the settlement conference as necessary during the pendency of the partition action.

(f) Requires each party to the action to appear at the settlement conference in person, by videoconference if allowed by the court, or by counsel. Requires each party's representative at the settlement conference to be authorized to dispose of any portion of the case. Requires the court, if a defendant appears pro se, to advise the defendant of the nature of the action and the defendant's rights and responsibilities as a defendant.

(g) Requires the court, if at the time the court first holds a settlement conference under this section a defendant has not filed an answer to or motion to dismiss the partition action, to advise the defendant of the requirement to answer the petition and that the ability to contest the partition action and assert defenses may be lost if an answer is not filed explain what is required to answer the petition in court, provide information about available resources for legal assistance, and set a deadline for any cotenant to request partition by sale.

(h) Requires the court to presume that a defendant who appears at a settlement conference but who did not timely file an answer in the partition action has a reasonable excuse for the default and to allow the defendant to serve and file an answer not later than the 30th day after the date of the defendant's initial appearance at the settlement conference, without deeming the defendant to have waived any substantive defenses to the partition action. Requires the court, on service and filing of the defendant's answer in accordance with this subsection, to vacate any default judgment that has issued against the defendant in the action.

(i) Requires each party to the action to negotiate in good faith to reach a mutually agreeable resolution regarding the property, which is authorized to include certain agreements and loss mitigations.

(j) Authorizes the court, if the parties do not reach a mutually agreeable resolution, to refer the case to an alternative dispute resolution procedure under Chapter 154 (Alternative Dispute Resolution Procedures), Civil Practice and Remedies Code.

(k) Authorizes the court to hold in abeyance any motion by any party to a partition action while a settlement conference process under this section is ongoing, except for a motion concerning a determination of the percentage interest, if any, owned by an alleged cotenant, if the interest is in dispute or compliance with this section, including an application to extend any deadline under this section in the interest of justice.

SECTION 7. Amends Section 23A.006, Property Code, by amending Subsections (a) and (b) and adding Subsection (d-1), as follows:

(a) Deletes existing text creating an exception under Subsection (c) (relating to requiring the court, if the court determines that the evidentiary value of an appraisal is outweighed by the cost of the appraisal, after an evidentiary hearing, to determine the fair market value of the property and send notice to the parties of the value).

(b) Requires the court, if all cotenants have agreed in writing to the value of the property or to another method of valuation, to adopt that value or the value produced by the agreed method of valuation.

(d-1) Requires an appraiser appointed under Subsection (d) (relating to requiring the court, if the court orders an appraisal, to appoint a disinterested real estate appraiser to determine the fair market value of the property assuming sole ownership of the fee simple estate) to be certified as a certified general appraiser under Chapter 1103 (Real Estate Appraisers), Occupations Code, unless the parties agree otherwise in writing or the court requires an appraiser with higher or additional certifications, licensing, or qualifications. Authorizes the court, notwithstanding the foregoing, if the court determines that a certified general appraiser is unavailable to appraise the property within a ninety-day time period, to appoint an appraiser licensed as a certified residential appraiser to perform the appraisal provided that the appraiser's license is adequate for the type of property being appraised.

SECTION 8. Amends Section 23A.007, Property Code, by adding Subsection (e), as follows:

(e) Requires the court, if the court sends notice to the parties under Subsection (d)(1) (relating to the requirements of the court, if only one cotenant elects to buy all the interests of the cotenants that requested partition by sale, to notify all the parties of that fact) or (2) (relating to the requirements of the court, if more than one cotenant elects to buy all the interests of the cotenants that requested partition by sale), to set a date, not earlier than the 90th, rather than the 60th, day after the date notice was sent, by which an electing cotenant is required to pay the cotenant's apportioned price into the court.

SECTION 9. Amends Sections 23A.010(d) and (e), Property Code, as follows:

(d) Authorizes the court, if the broker appointed under Subsection (b) (relating to requiring the court, if the court orders an open-market sale and the parties, not later than the 10th day after the date the order is entered, to agree on a real estate broker to offer the property for sale, to appoint the broker and establish a reasonable commission) does not obtain within a reasonable time an offer to purchase the property for at least the determination of value, after hearing, to:

(1)-(2) makes no changes to these subdivisions; or

(3) appoint a substitute broker under Subsection (b) and order that the property continue to be offered for sale, rather than be sold by sealed bids or at an auction.

(e) Authorizes the court, if a substitute broker appointed under Subsection (d)(3) does not obtain within a reasonable time a reasonable offer to purchase the property, to order the sale of the property by sealed bids or at an auction. Makes nonsubstantive changes.

SECTION 10. Amends Chapter 23A, Property Code, by adding 23A.0115, as follows:

Sec. 23A.0115. PROHIBITION ON INITIATION OF PARTITION. (a) Prohibits a partition action related to an heirs' property from being initiated by a non-heir cotenant holding less than 50 percent of the interest in said property for a period of ten years from the date the non-heir cotenant first acquired a co-ownership interest in said property.

(b) Provide that this section does not apply to an interest in heirs' property acquired by a non-heir cotenant prior to January 1, 2026.

SECTION 11. Amends Chapter 5, Property Code, by adding Subchapter H, as follows:

SUBCHAPTER H. NON-PARTITION SALE OF HEIR COTENANT'S INTEREST IN HEIRS' PROPERTY

Sec. 5.251. DEFINITIONS. Define "heir cotenant," "heirs' property," "non-heir cotenant," and "relative."

Sec. 5.252. APPLICABILITY OF SUBCHAPTER. Provides that this subchapter applies to the sale of an heir cotenant's interest in heirs' property if an heir cotenant is in possession of the property and the sale does not result from an action to partition the property under Chapter 23 or 23A.

Sec. 5.253. RIGHT OF FIRST REFUSAL AND NOTICE OF SALE. (a) Provides that if a cotenant decides to sell all or part of their interest in heirs' property to a non-heir cotenant who is not a relative of an heir cotenant, any heir cotenants who reside on the property have a right of first refusal to purchase the interest in accordance with this subchapter.

(b) Requires the selling cotenant, before selling an interest in heirs' property covered by this subchapter, to have a contract with the third-party purchaser that sets forth the terms of the sale and is subject to the right of first refusal in this subchapter.

(c) Provides that any heir cotenants who reside on the property are entitled to buy the interest for the same price in the contract for a period of 90 days from the date the notice under Section 5.254 is sent.

(d) Provides that if multiple heir cotenants who reside on the property offer to purchase the interest, priority is given to heir cotenants who have occupied the property as their primary residence for at least the past five years and paid all or part of the ad valorem taxes imposed on the property for at least three of the five most recent tax years.

(e) Provides that, if a non-heir cotenant who acquired an interest in heirs' property after December 31, 2025, brings a partition action under Chapter 23 and the acquisition was not made in compliance with the right of first refusal requirements in this section, the heir cotenants who reside on the property have a right to buy the non-heir cotenant's interest in the property for the lesser of (1) the fair market value of the non-heir cotenant's interest in the property and (2) the price paid by the non-heir cotenant to acquire the interests in the property.

Sec. 5.254. NOTICE TO HEIR COTENANTS. (a) Requires the selling cotenant, within 30 days of a cotenant entering into a contract for the sale of heirs' property to a non-heir cotenant, to give notice of the proposed sale to all persons in possession of the property and all known heir cotenants of the property. Requires that the notice include the identity of the proposed purchaser, the sales price of the proposed transaction, and a copy of the contract.

(b) Requires that notice be sent to the heir cotenants' last known address by certified mail with return receipt requested.

(c) Provides that the selling cotenant has a duty to exercise due diligence to identify the names and locations of all the heir cotenants and provide the notice required under this subchapter.

SECTION 12. Amends Subchapter C, Chapter 72, Government Code, by adding Section 72.040, as follows:

Sec. 72.040. HEIR'S BILL OF RIGHTS FORM. (a) Requires OCA to promulgate an heir's bill of rights form required to be included in a citation for a partition action under Chapter 23, Property Code.

(b) Requires that the standardized form developed under Subsection (a):

- (1) be written in English that can be easily understood by the general public and include a Spanish translation;
- (2) provide information for accessing free or low-cost legal assistance;
- (3) inform cotenant heirs of their rights and duties under Chapters 23 and 23A, Property Code, including their buyout rights and right to request a settlement conference; and
- (4) include such other information as the office determines is appropriate to adequately inform heirs of their rights and duties under Chapters 23 and 23A, Property Code.

SECTION 13. (a) Makes application of Chapters 23 and 23A, Property Code, as amended by this Act, prospective.

(b) Requires OCA, as soon as practicable after the effective date of this Act, but not later than December 31, 2025, to create and make available on OCA's Internet website the forms required by Section 72.040, Government Code, and Section 23A.0041, Property Code, as added by this Act.

(c) Makes application of Subchapter H, Chapter 5, Property Code, as added by this Act, prospective to January 1, 2026.

SECTION 14. Effective date: September 1, 2025.