

ALTERNATIVE TO EXISTING SECTION 7

SECTION 7. COTENANT BUYOUT

(a) Following the determination of value under Section 6, the court shall notify the parties that any cotenant except a cotenant that requested partition by sale may buy the interest of any cotenant that requested partition by sale.

(b) Not later than 45 days after the court notice is sent under subsection (a), 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.

(c) The purchase price for each of those cotenants' interests is the value of the entire parcel determined under Section 6 multiplied by that cotenant's fractional ownership of the entire parcel.

(d) After expiration of the period in subsection (b):

(1) If only one cotenant elects to buy all the interests of the cotenants that requested partition by sale, the court shall notify all the parties of that fact.

(2) If more than one cotenant elects to buy all the interests of the cotenants that requested partition by sale, the court shall apportion those interests among the electing cotenants based on each electing cotenant's existing fractional ownership of the entire parcel divided by the total existing fractional ownership of all cotenants electing to buy, and notify all the parties of that fact and of the price to be paid by each electing cotenant.

(3) If no cotenant elects to buy the all the interests of the cotenants that requested partition by sale , the court shall notify all the parties of that fact and resolve the partition action under Section 8(a) and (b).

(e) If the court notifies the parties under either subsection (d)(1) or (2), the court shall set a date, not sooner than 60 days thereafter, by which electing cotenants must pay the price into the court. After this date:

(1) If all electing cotenants timely pay their apportioned price, the court shall issue an order reallocating all of the cotenants' interests and disburse the amounts held by it to the persons entitled to them.

(2) If no electing cotenant timely pays his apportioned price, the court shall resolve the partition action under Section 8(a) and (b) as if the interests of the cotenants that requested partition by sale were not purchased.

(3) If one or more but not all of the electing cotenants fail to timely pay their apportioned price, the court [on motion,] shall give notice to the electing cotenants that paid their apportioned price of the interest remaining and the price for all that interest.

(f) Not later than 20 days after the court gives the notice described in subsection (e)(3), any cotenant that paid may elect to purchase all of the remaining interest by paying the entire price into the court. After that date:

(1) If only one cotenant pays the entire price for the remaining interest, the court shall issue an order reallocating the remaining interest to that cotenant. The court shall simultaneously issue an order reallocating all of the cotenants' interests and disburse the amounts held by it to the persons entitled to them.

(2) If no cotenant pays the entire price for the remaining interest, the court shall resolve the partition action under Section 8(a) and (b) as if none of the interests of the cotenants that requested partition by sale had been purchased.

(3) If more than one cotenant pays the entire price for the remaining interest, the court shall re-apportion the remaining interest among those paying cotenants, based on each paying cotenant's original fractional ownership of the entire parcel divided by the total original fractional ownership of all cotenants who paid the entire price for the remaining interest. The court shall simultaneously issue an order reallocating all of the cotenants' interests, disburse the amounts held by it to the persons entitled to them, and promptly refund any excess payment held by the court.

