Chapter 46A.

Partition.

Article 1.

General Provisions.

§ 46A-1. Partition is a special proceeding.

A partition of property under this Chapter is by special proceeding and, except as modified in this Chapter, its procedure is provided in Subchapter XII of Chapter 1 of the General Statutes. (1868-9, c. 122, s. 33; Code, s. 1923; Rev., s. 2485; C.S., s. 3213; 2020-23, ss. 2(a), 3.)

§ 46A-2. Summons; notice included in petition.

(a) In partition proceedings initiated under this Chapter, the period of time for answering a summons is provided in G.S. 1-394.

(b) The petition shall include written notice in a manner reasonably calculated to make the respondent aware of the following:

(1) That the respondent has the right to seek the advice of an attorney and that free legal services may be available to the respondent by contacting Legal Aid of North Carolina or other legal services organizations.

(2) That pursuant to G.S. 46A-3, the court may order reasonable attorneys' fees to be paid as a part of the costs of the proceeding. (2009-362, s. 3; 2020-23, ss. 2(c), 3.)

§ 46A-3. Attorneys' fees.

(a) In proceedings to partition property under this Chapter, the court shall allocate among all the cotenants of the property those reasonable attorneys' fees incurred by any cotenant for the common benefit of all the cotenants, unless a cotenant shows that doing so would be inequitable. The allocation shall be according to each cotenant's interest in the property.

(b) The attorneys' fees described in subsection (a) of this section do not include attorneys' fees incurred in disputing the method of partition or the division of the proceeds of a partition sale. Reasonable attorneys' fees incurred by a cotenant in disputing an issue described in this subsection shall be allocated by the court among those cotenants determined by the court to be aligned with the cotenant on that issue. The allocation shall be according to each aligned cotenant's interest in the property relative to the total interest of all the aligned cotenants in the property.

(c) The court has discretion to allocate among the parties reasonable attorneys' fees that are not described in subsection (a) or (b) of this section. (2020-23, s. 3.)

§ 46A-4: Reserved for future codification purposes.

§ 46A-5: Reserved for future codification purposes.

§ 46A-6: Reserved for future codification purposes.

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§ 46A-18: Reserved for future codification purposes.

§ 46A-19: Reserved for future codification purposes.