

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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HOUSE BILL 794

Short Title: Clarify Valuation Method for Partitions. (Public)

Sponsors: Representatives Zachary and R. Turner (Primary Sponsors).

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Judiciary, if favorable, Rules, Calendar, and Operations of the House

April 18, 2019

1 A BILL TO BE ENTITLED
2 AN ACT TO CLARIFY THAT COMMISSIONERS MAY CONSIDER OWNERSHIP OF
3 ADJOINING PARCELS IN DIVIDING LAND FOR IN-KIND PARTITIONS OF REAL
4 PROPERTY.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** G.S. 46-10 reads as rewritten:

7 "**§ 46-10. Commissioners to meet and make partition; equalizing shares.**

8 (a) The commissioners, who shall be summoned by the sheriff, must meet on the
9 premises ~~and~~ and, subject to the provisions of subsection (b) of this section, partition the same
10 among the tenants in common, or joint tenants, according to their respective rights and interests
11 therein, by dividing the land into ~~equal~~ equal shares ~~in point of value as nearly as possible, and for~~
12 which reflect the rights and interests of the tenants in common or joint tenants based upon the
13 value of the tract or tracts irrespective of the quantity of land involved in the partition proceeding.
14 For this purpose they the commissioners are empowered to subdivide the more valuable tracts as
15 they may deem best, and to charge the more valuable ~~dividends~~ tracts with such sums of money
16 as they may think necessary, to be paid to the ~~dividends~~ tenants of tracts of inferior value, in
17 order to make an equitable partition.

18 (b) A tenant in common or joint tenant with ownership of lands not subject to partition
19 that adjoin the tract or tracts subject to partition may elect to have an adjoining share or shares
20 allotted to them. The election may be made in the petition for partition, in any pleading filed in
21 response to the petition for partition, or by filing an election at any time prior to the appointment
22 of commissioners. If the commissioners determine that an allotment of an adjoining share would
23 be inequitable or not feasible, then the commissioners shall provide the basis for that
24 determination in the report filed pursuant to G.S. 46-17. If a party files an election separate from
25 the petition for partition or a responsive pleading to the petition for partition, then that election
26 or responsive pleading shall be served upon the other parties as any other responsive pleading."

27 **SECTION 2.** This act is effective when it becomes law and applies to petitions filed
28 on or after that date.

