

## **IC 32-17-4**

### **Chapter 4. Partition Proceedings**

#### **IC 32-17-4-1**

##### **Compelling partition; defendants**

Sec. 1. (a) The following persons may compel partition of land held in joint tenancy or tenancy in common as provided under this chapter:

(1) A person that holds an interest in the land as a joint tenant or tenant-in-common either:

(A) in the person's own right; or

(B) as executor or trustee.

(2) If the sale of the estate of a decedent who held an interest in the land as a joint tenant or tenant in common is necessary, the decedent's administrator or executor.

(b) A trustee, an administrator, or an executor may be made a defendant in an action for the partition of real estate to answer as to any interest the trustee, administrator, or executor has in the real estate.

*As added by P.L.2-2002, SEC.2.*

#### **IC 32-17-4-2**

##### **Petition to partition; title search**

Sec. 2. (a) A person described in section 1(a) of this chapter may file a petition to compel partition in the circuit court or court having probate jurisdiction of the county in which the land or any part of the land is located.

(b) A petition filed under subsection (a) must contain the following:

(1) A description of the premises.

(2) The rights and titles in the land of the parties interested.

(c) At the time a person files a petition under subsection (a), the person shall cause a title search to be made regarding the land that is the subject of the partition. The person shall file a copy of the results of the title search with the court.

*As added by P.L.2-2002, SEC.2. Amended by P.L.41-2012, SEC.2.*

#### **IC 32-17-4-2.5**

##### **Procedure for partition actions**

Sec. 2.5. (a) Not later than forty-five (45) days after the court has acquired jurisdiction over all the parties who have an interest in the property that is the subject of the action, the court shall refer the matter to mediation in accordance with the Indiana rules of alternative dispute resolution.

(b) Except as provided in subsection (c), mediation of the case may not begin until an appraiser files an appraisal report with the court.

(c) If each party waives the appraisal of the property, the case may

move to mediation without the filing of an appraisal report.

(d) In its order referring the matter for mediation, the court shall advise the parties:

(1) that the real or personal property will be sold if the parties are unable to reach an agreement not later than sixty (60) days after the order is issued; and

(2) that the parties may agree upon a method of the sale of the property, and if the parties do not agree upon a method of the sale of the property, the property may be sold at public auction or by the sheriff under subsection (g).

(e) Except if the parties agree to waive the appraisal of the property, not later than thirty (30) days after the court acquires jurisdiction under subsection (a), the court shall appoint a licensed real estate appraiser to appraise the property. The appraiser shall file the appraisal with the court.

(f) After receiving the appraisal, the court shall notify the parties of the appraised value of the property.

(g) If an agreed settlement is not reached in mediation or if the parties agree upon a method of sale, the court shall not later than thirty (30) days after the date the mediator files a report with the court that the mediation was not successful, or the parties file their agreement establishing the method of sale:

(1) order the property to be sold using the method that all the parties agree upon; or

(2) order the parties to select an auctioneer to sell the property. If the parties fail to select an auctioneer not later than thirty (30) days after the court's order to select an auctioneer, the court shall order the sheriff to sell the property in the same manner that property is sold at execution under IC 34-55-6. The manner of appraising property described in this section satisfies the appraisal requirement under IC 34-55-4 or any other statute. However, if the parties waive appraisal of the property:

(A) the court shall order the sale to proceed without relief from valuation or appraisal under IC 34-55-4 or any other statute; and

(B) IC 34-55-4-1 does not apply to the sale.

(h) At the time the court orders the property to be sold, the court shall notify all lienholders and other persons with an interest in the lien or property, as identified in the title search or lien search required under IC 29-1-17-11 or section 2 of this chapter, of the sale. The property must be sold free and clear of all liens and special assessments except prescriptive easements, easements of record, and irrevocable licenses, with any sum secured by a lien or special assessment to be satisfied from the proceeds of the sale.

(i) The person who causes a title search to be conducted under section 2 of this chapter or a title or lien search to be conducted under IC 29-1-17-11 is entitled to reimbursement from the proceeds of the sale.

(j) Any person who has paid a tax or special assessment on the

property is entitled to pro rata reimbursement from the proceeds of the sale.

(k) Any person may advertise a sale under this section at the person's own expense, but is not entitled to reimbursement for these expenses.

(l) After deduction of the amounts described in subsections (h), (i), and (j) and the reasonable expenses of the sale, the court shall divide the proceeds of the sale among the remaining property owners in proportion to their ownership interest.

(m) If a party having an ownership interest in the property becomes the successful purchaser of the property either through agreed settlement or through auction, that person shall be given a full credit based on the percentage of the person's interest in the property before the purchase.

(n) As used in this subsection, "real estate professional" has the meaning set forth in IC 23-1.5-1-13.5. If the court has ordered that some or all of the property be sold at auction and, at any time before the property is sold at auction, all parties inform the court in writing that they:

- (1) wish to sell some or all of the property through a real estate professional;
- (2) have jointly selected a real estate professional; and
- (3) have agreed upon a listing price for the property;

the court shall rescind its order that the property, or a part of the property, be sold at auction and permit the property to be sold through a real estate professional. If some or all of the property has not been sold at the expiration of the listing agreement with the real estate professional, upon petition by any party, the court shall order the property to be sold at auction in accordance with subsection (h).  
*As added by P.L.41-2012, SEC.3. Amended by P.L.94-2014, SEC.4.*

### **IC 32-17-4-3**

#### **Repealed**

*(As added by P.L.2-2002, SEC.2. Repealed by P.L.41-2012, SEC.4.)*

### **IC 32-17-4-4**

#### **Repealed**

*(As added by P.L.2-2002, SEC.2. Repealed by P.L.41-2012, SEC.5.)*

### **IC 32-17-4-5**

#### **Repealed**

*(As added by P.L.2-2002, SEC.2. Repealed by P.L.41-2012, SEC.6.)*

### **IC 32-17-4-6**

#### **Repealed**

*(As added by P.L.2-2002, SEC.2. Repealed by P.L.41-2012, SEC.7.)*

**IC 32-17-4-7**

**Repealed**

*(As added by P.L.2-2002, SEC.2. Repealed by P.L.41-2012, SEC.8.)*

**IC 32-17-4-8**

**Repealed**

*(As added by P.L.2-2002, SEC.2. Repealed by P.L.41-2012, SEC.9.)*

**IC 32-17-4-9**

**Repealed**

*(As added by P.L.2-2002, SEC.2. Repealed by P.L.41-2012, SEC.10.)*

**IC 32-17-4-10**

**Repealed**

*(As added by P.L.2-2002, SEC.2. Repealed by P.L.41-2012, SEC.11.)*

**IC 32-17-4-11**

**Repealed**

*(As added by P.L.2-2002, SEC.2. Repealed by P.L.41-2012, SEC.12.)*

**IC 32-17-4-12**

**Repealed**

*(As added by P.L.2-2002, SEC.2. Repealed by P.L.41-2012, SEC.13.)*

**IC 32-17-4-13**

**Repealed**

*(As added by P.L.2-2002, SEC.2. Repealed by P.L.41-2012, SEC.14.)*

**IC 32-17-4-14**

**Repealed**

*(As added by P.L.2-2002, SEC.2. Repealed by P.L.41-2012, SEC.15.)*

**IC 32-17-4-15**

**Repealed**

*(As added by P.L.2-2002, SEC.2. Repealed by P.L.41-2012, SEC.16.)*

**IC 32-17-4-16**

**Repealed**

*(As added by P.L.2-2002, SEC.2. Repealed by P.L.41-2012, SEC.17.)*

**IC 32-17-4-17**

**Repealed**

*(As added by P.L.2-2002, SEC.2. Repealed by P.L.41-2012, SEC.18.)*

**IC 32-17-4-18**

**Repealed**

*(As added by P.L.2-2002, SEC.2. Repealed by P.L.41-2012, SEC.19.)*

**IC 32-17-4-19**

**Repealed**

*(As added by P.L.2-2002, SEC.2. Repealed by P.L.41-2012, SEC.20.)*

**IC 32-17-4-20**

**Repealed**

*(As added by P.L.2-2002, SEC.2. Repealed by P.L.41-2012, SEC.21.)*

**IC 32-17-4-21**

**Repealed**

*(As added by P.L.2-2002, SEC.2. Repealed by P.L.41-2012, SEC.22.)*

**IC 32-17-4-22**

**Repealed**

*(As added by P.L.2-2002, SEC.2. Repealed by P.L.41-2012, SEC.23.)*

**IC 32-17-4-23**

**Partition of fee and life estates**

Sec. 23. A:

(1) person that owns:

(A) an undivided interest in fee simple in any lands; and

(B) a life estate in:

(i) the remaining part of the land; or

(ii) any part of the remaining portion of the land; or

(2) person that owns a fee in the land described in subdivision

(1) that is subject to the undivided interest in fee and the life estate in the land;

may compel partition of the land and have the fee simple interest in the land set off and determined in the same manner as land is partitioned under Indiana law.

*As added by P.L.2-2002, SEC.2.*

**IC 32-17-4-24**

**Repealed**

*(As added by P.L.2-2002, SEC.2. Repealed by P.L.41-2012, SEC.24.)*