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2027 Regular Session
OLC00-004
08/31/26 (RLM)

D R A F T

SUMMARY

A BILL FOR AN ACT

Relating to partitions of real property; creating new provisions; amending ORS 105.205, 105.210, 105.220, 105.245, 105.250, 105.270, 105.285, 105.290, 105.295, 105.300, 105.305, 105.320, 105.350, 105.355, 105.360, 105.365, 105.370, 105.390, 105.400 and 105.405; and repealing ORS 105.225, 105.280, 105.325 and 105.330.

Be It Enacted by the People of the State of Oregon:

UNIFORM PARTITION OF HEIRS PROPERTY ACT

SECTION 1. Uniform Act. (1) Sections 1 to 8, 9 and 10 of this 2027 Act and sections 9 and 10 of this 2027 Act may be cited as the Uniform Partition of Heirs Property Act.

(2) In applying and construing sections 1 to 8, 9 and 10 of this 2027 Act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

SECTION 2. Definitions. As used in sections 1 to 8 of this 2027 Act:

(1) "Determination of value" means the value of heirs property as determined by a court order under section 5 of this 2027 Act.

(2) "Document" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(3) "Heirs property" means real property held in tenancy in common and, as of the date of filing of a partition action, with respect to the property:

(a) There is no agreement in a document binding all the cotenants which governs the partition of the property;

(b) One or more of the cotenants acquired title from the content's relative, whether living or deceased; and

(c) Twenty percent or more of the:

(A) Interests are held by individuals who are relatives to another cotenant;

(B) Interests are held by an individual who acquired title from a relative, whether living or deceased, of the individual; or

(C) Cotenants are relatives of another cotenant.

(4) "Partition by sale" means a court-ordered sale of the entire partitioned property, conducted under section 9 of this 2027 Act.

(5) "Partition in kind" means the division of heirs property into physically distinct and separately titled parcels under section 7 of this 2027 Act.

(6) "Relative" means an individual related to another individual by:

(a) Preceding or following another individual in lineage, in the direct line of ascent or descent from the other individual.

(b) Relation under the law of intestate succession;

(c) Marriage or domestic partnership;

(d) Adoption; or

(e) Any other state law establishing relationships.

<u>SECTION 3.</u> <u>Applicability.</u> (1) In an action to partition real property under ORS 105.205 to 105.405, as early in the proceedings as possible, the court has a duty to, and may take affirmative actions to, determine if the property is heirs property. If the court determines that the property is heirs property at any point while the action is pending, the property must be partitioned under sections 1 to 8 of this 2027 Act unless all of the parties otherwise agree.

(2) Sections 1 to 8 of this 2027 Act supplement other provisions of ORS 105.205 to 105.405 and, only to the extent that they are inconsistent with those provisions, replace those provisions.

<u>SECTION 4.</u> <u>Service; notice of proceedings.</u> (1) Sections 1 to 9 of this 2027 Act do not limit or affect the method by which service of a complaint in a partition action

may be made.

(2) If the court determines that the property that is subject to the action of partition may be heirs property, within 10 days of that determination, the plaintiff shall:

(a) Mail a notice of the proceedings or otherwise deliver such notice according to the rule of the prospective recipient of the proceeding to:

(A) The Department of Revenue;

(B) The Department of Human Services;

(C) The Oregon Health Authority; and

(D) The State Treasurer.

(b) If a court allows for service of the summons and complaint against any defendant, known or unknown, to be made by publication under ORCP 7 or ORS 105.230, post and maintain throughout the proceedings a conspicuous sign containing a notice of the proceedings on the property while the action is pending.

(3) A notice of the proceedings under this section, must include:

(a) A notice that the action has commenced to partition the heir's property;

(b) The address or addresses of the property;

(c) The name and address of the court and the case number under which the action is proceeding;

(d) The name and address of the plaintiff and the plaintiff's attorney; and

(e) As may be required by the court, the names of the known defendants or any other information pertaining to the case.

<u>SECTION 5.</u> <u>Determination of value.</u> **(1) Before ordering any other relief to any party, including issuing an order or judgment of default against any party, or initiating the proceedings under section 6 of this 2027 Act, the court shall determine the fair market value of heirs property as provided under this section.**

(2) If all cotenants [parties?] have agreed to the value of the property or to another method of valuation, the court shall adopt that value or the value produced by the agreed method of valuation.

(3) Unless the court determines that the evidentiary value of an appraisal is outweighed by the cost of the appraisal, the court shall appoint a disinterested real estate appraiser licensed in this state to determine the fair market value of the property

assuming sole ownership of the fee simple estate. On completion of the appraisal, the appraiser shall file a sworn or verified appraisal with the court.

(4) Not later than 14 days after the appraisal is filed or the court determines that an appraisal is not required under subsection (3) of this section, the court shall send notice to each cotenant or party with a known address, without regard to whether they have appeared in the proceeding, stating:

(a) The purported fair market value of the property;

(b) Whether the purported value was determined by the court or made by an appraisal;

(c) That the appraisal, if any was made, is available at the clerk's office; and

(d) The time and date of the hearing under subsection (4) of this section;

(e) That a party may file an objection to the appraisal with the court before the hearing and state the grounds for the objection or may appear or may appear and present arguments and testimony at the hearing;

(f) That the court, after the hearing, will determine the fair market value of the property.

(5) The court shall conduct a hearing to determine the fair market value of the property not sooner than 30 days after a copy of the notice is sent to each party under subsection (4) of this section. The hearing must be held whether or not an objection to the appraisal is filed under subsection (4)(c). In addition to the court-ordered appraisal, if any, the court may consider any other evidence of value offered by a party.

(6) After a hearing under this section, but before considering the merits of the partition action, the court shall determine the fair market value of the property and send notice to the parties of the determination of value.

SECTION 6. Cotenant Buyout. (1) As used in this section:

(a) "Eligible cotenant" means any cotenant except an offering cotenant or nonappearing cotenant.

(b) "Nonappearing cotenant" means any cotenant who is unknown or contingent or who cannot be served, or against whom an issue of default has been ordered.

(c) "Offering cotenant" means any cotenant who has requested partition by sale of the property.

(2) If any cotenant requested partition by sale of heir's property, the court shall send notice to each party:

(a) That the interests of the of the offering cotenants are available for one or more eligible cotenant to purchase;

(b) The purchase price of the interest of each offering cotenant, which must be proportionate to the determination of value, the percentage ownership of each interest, and the total price and ownership percentage of the entire available interest

(c) If any portion of any available interest will to be sold subject to any prior estate, claim, charge or lien that will not be discharged upon the sale, that fact must be stated in the notice;

(d) The names of the eligible cotenants;

(e) The process and deadlines for eligible cotenants to provide notice of their intention to purchase the available interest and the manner in which the available interest may be divided under this section.

(2) Any eligible cotenant may give notice to the court that it elects to buy all the available interests within 45 days, unless the court expands the period of time at the request of an eligible cotenant for any valid reason, including to perform any inspections or to obtain financing.

(3) After expiration of the period in subsection (2) of this section:

(a) If no eligible cotenant elects to buy the available interests, the court shall:

(A) Send notice to all the parties of that fact; and

(B) Resolve the partition action under section 7 of this 2027 Act.

(b) If one or more eligible cotenant elects to buy all the available interests, the court shall:

(A) Allocate the right to buy 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

(B) Notify the parties of that fact and of the price to be paid by each electing cotenant.

(4) If the court sends notice to the parties under subsection (3)(b) of this section, the court shall set a date, not sooner than 60 days after the date the notice was sent,

by which electing cotenants must pay their apportioned price into the court. After this date, the following rules apply:

(a) If any electing cotenants timely pay their apportioned price into court, the court shall issue an order reallocating all the available interests and may issue a limited judgment disbursing funds as provided in ORS 105.285.

(b) If no electing cotenant timely pays its apportioned price, the court shall resolve the partition action under section 7 of this 2027 Act as if the available interests were not purchased.

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

(5) Not later than 20 days after the court gives notice pursuant to subsection (4)(c) of this section, any electing cotenant that paid their apportioned price into court may elect to purchase all of the remaining interest by paying the entire price into the court. After the 20-day period,:

(a) If only one cotenant pays the entire price for the remaining available interests, the court shall issue an order reallocating the remaining interest to that cotenant and may issue a limited judgment disbursing funds as provided in ORS 105.285.

(b) If no cotenant pays the entire price for the remaining interest, the court shall resolve the partition action under section 7 (1) and (2) of this section as if the remaining available interests were not purchased.

(c) If more than one cotenant pays the entire price for the remaining interest, the court shall reapportion 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 that paid the entire price for the remaining interest. The court shall promptly refund the excess payments made by the cotenants and held by the court. The court shall issue an order reallocating all of the remaining available interests and may issue a limited judgment disbursing funds as provided in ORS 105.285.

(6)(a) After the court sends notice to the parties pursuant to subsection (1) of this

section, any eligible cotenant may request the court to authorize the sale of the nonappearing cotenants.

(b) The court, after hearing, may allow or deny the request for the sale of the interest of one or more nonappearing tenant on such terms as the court determines are fair and reasonable.

(c) A sale under this subsection may occur only after the purchase prices for all interests subject to sale under subsections (1) to (5) of this section have been paid into court and those interests have been reallocated.

(d) The purchase price for the interest of a nonappearing cotenant is based on the court's determination of value.

<u>SECTION 7.</u> <u>Partition in Kind.</u> (1)three referees to partition the property

(2) If the court does not order partition in kind under subsection (1) of this section, the court shall order partition by sale pursuant to section 10 of this section or, if no cotenant requested partition by sale, the court shall dismiss the action.

(1) If all the interests of all offering cotenants are not purchased by other cotenants pursuant to section 6 of this 2027 Act or if after conclusion of the process described in section 6 of this 2027 Act, one or more cotenant remains that has requested partition in kind, the court shall enter a judgment requiring a partition according to the respective rights of the parties, as ascertained by the court and appoint three referees to partition the property under ORS 105.245 (2) unless the court, after consideration of the factors listed in section 8 of this 2027 Act, finds that partition in kind will result in great prejudice to the cotenants as a group:

(2) If the court does not order partition in kind under subsection (1) of this section, or if the referees report that the property cannot be partitioned under ORS 105.270, the court shall order partition by sale pursuant to section 9 of this section or, if no cotenant requested partition by sale, the court shall dismiss the action.

(3) If the court orders partition in kind pursuant to subsection (1) of this section, the court may require that one or more cotenants pay one or more other cotenants amounts so that the payments, taken together with the value of the in-kind distributions to the cotenants, will make the partition in kind just and proportionate in value to the fractional interests held.

<u>SECTION 8.</u> <u>Considerations for partition in kind.</u> In determining under section 7 of this 2027 Act whether partition in kind would result in great prejudice to the cotenants as a group, the court shall consider:

(a) Whether the heirs property practicably can be divided among the cotenants who are parties;

(b) Whether partition in kind would apportion the property in such a way that the aggregate fair market value of the parcels resulting from the division would be materially less than the value of the property if it were sold as a whole, taking into account the condition under which a court-ordered sale likely would occur;

(c) Evidence of the collective duration of ownership or possession of the property by:

(A) A cotenant; and

(B) One or more predecessors in title or predecessors in possession to the cotenant who are or were relatives of the cotenant;

(d) A cotenant's sentimental attachment to the property, including any attachment arising because the property has ancestral or other unique or special value to the cotenant;

(e) The lawful use being made of the property by a cotenant and the degree to which the cotenant would be harmed if the cotenant could not continue the same use of the property;

(f) The degree to which the cotenants have contributed their pro rata share of the property taxes, insurance and other expenses associated with maintaining ownership of the property or have contributed to the physical improvement, maintenance or upkeep of the property; and

(g) Any other relevant factors.

(2) The court may not consider any one factor in subsection (1) of this section to be dispositive without weighing the totality of all relevant factors and circumstances.

(3) In considering whether to order partition in kind, the court shall allow two or more parties to have their individual interests aggregated.

PARTITION BY BROKER SALE UNDER UNIFORM ACT AND APPLICABLE TO

ALL PARTITION ACTIONS

SECTION 9. Partition by sale. (1) If the court orders a sale of property, the sale must be an open-market sale unless the court finds that a sale by sealed bids or an auction would be more economically advantageous and in the best interest of the cotenants as a group.

(2) If the court orders an open-market sale and the parties, not later than 10 days after the entry of the order, agree on a real estate broker licensed in this state to offer the property for sale, the court shall appoint the broker and establish a reasonable commission. If the parties do not agree on a broker, the court shall appoint a disinterested real estate broker licensed in this state to offer the property for sale and shall establish a reasonable commission.

(3) The broker shall offer the property for sale in a commercially reasonable manner and on the terms and conditions established by the court. If the property or any part of it is to be sold subject to a prior estate, claim, charge or lien that will not be discharged by upon the sale, that fact must be stated in the listing. If the property is heirs property, the property may not be listed at a price no lower than the value of the property as determined under section 6 of this 2027 Act.

(4) The broker shall report an offer to the court under section 10 of this 2027 Act if the broker obtains an offer to purchase the property that is at least:

(a) The determination of value, if the property is heirs property;

(b) A redetermined value under subsection (5)(b) of this section; or

(c) If no value has been determined, a reasonable price as determined by the broker.

(5) If, within a reasonable time, the broker does not obtain an offer to purchase heirs property under subsection (4) of this section, the court, after hearing, may:

(a) Approve the highest outstanding offer, if any;

(b) Redetermine the value of the property and order that the property continue to be offered for an additional time; or

(c) Order that the property be sold by sealed bids or at an auction.

(6) If the court orders a sale by sealed bids or an auction, the court shall set terms

and conditions of the sale. If the court orders an auction, the auction must be conducted in the manner required for the sale of real property on execution.

<u>SECTION 10.</u> <u>Report of open-market sale.</u> (1) A broker appointed under section 10 (2) of this 2027 Act shall file a report with the court not later than seven days after receiving an valid offer under section 10 of this 2027 Act.

(2) The report required by subsection (1) of this section must contain the following information:

(a) A description of the property to be sold to each buyer;

(b) The name of each buyer;

(c) The proposed purchase price;

(d) The terms and conditions of the proposed sale, including the terms of any owner financing;

(e) The amounts to be paid to parties;

(f) A statement of contractual or other arrangements or conditions of the broker's commission; and

(g) Other material facts relevant to the sale.

(3) Upon the receipt of the offer, the court may order the acceptance of the offer and the sale may be completed as approved in a general judgment under ORS 105.285.

<u>SECTION 11.</u> ORS 105.245 is amended to read:

105.245. **(1)** If it is alleged in the complaint and established by evidence, or if it appears by the evidence to the satisfaction of the court without an allegation in the complaint, that the property or any part of it is so situated that partition cannot be made without great prejudice to the [*owners*]**cotenants**, the court may order a sale of the property[*, and for that purpose may appoint one or more referees. Otherwise,*] **by a broker under section 9 of this 2026 Act.Act.**

(2) If the court does not order a sale under subsection (1) of this section, upon the requisite proofs being made, [*it*]**the court** shall**:**

(a) [*enter*]**Enter** a judgment requiring a partition according to the respective rights of the parties, as ascertained by the court[.]**;**

(b) [*The court shall a*]**A**ppoint three referees to partition the property**;** and

(c) [*shall designate*]**Designate** the portion to remain undivided for the [*owners*]**co-**

tenants whose interest remain unknown or not ascertained.

SECTION 12. ORS 105.270 is amended to read:

105.270. If the referees report to the court that the property to be partitioned, or any separate portion thereof, is so situated that a partition thereof cannot be made without great prejudice to the owners, and the court is satisfied that the report is correct, it may, by an order, direct [*the referees to sell the property or separate portion thereof so situated*]**a broker to sell the property under section 9 of this 2027 Act**.

SECTION 13. ORS 105.285 is amended to read:

105.285. [*The proceeds of the sale of encumbered property shall be distributed by the judgment of the court as follows:*]

The court shall enter a final judgment, and may enter one or more limited judgments throughout the proceedings, distributing proceeds received into or payable to the court or otherwise available for the benefit of the cotenants under sections 6 or 9 of this 2027 Act:

(1) To pay the [*property's*]**cotenants'** just proportion of the [*general costs of the suit*] **reasonable costs of the partition as determined under ORS 105.405**.

[*(2) To pay the costs of the reference.*]

[*(3)*]**(2)** To satisfy the several liens in their order of priority, by payment of the sums due and to become due, according to the judgment.

[*(4)*]**(3)** The residue among the [*owners of the property sold*]**cotenants**, according to their respective shares.

SECTION 14. ORS 105.405 is amended to read:

105.405. (1) **The court shall ascertain and allow as the reasonable costs of the partition:**

(a) The **reasonable and typical fees and** expenses of the referees**, appraisers, surveyors,** , including those of a surveyor and assistants of the surveyor when employed[*, shall be ascertained and allowed by the court, and the amount thereof, together with the fees allowed by law to the referees, shall be paid by the plaintiff, and may be allowed as part of the costs of partition*].

(b) The fees, costs and disbursements of the attorney for any party that are for services performed for the common benefit of all parties.

(2) The reasonable costs of partition[*, including reasonable attorney fees and disbursements, that are for services performed for the common benefit of all parties, shall*]**:**

(a) Must be paid by the parties [*that will share in the lands divided*] in proportion to their respective interests therein[*, and shall*]**.**

(b) Must be included and specified in the judgment.

(c) [*They shall be*]**Are** a lien on the several shares **of the property or any party's interest in any investment or proceeds that arise under ORS 105.205 to 105.405, whether or not distributed**, and the judgment may be enforced by execution against the parties separately.

(3) [*When, however,*]**If** a controversy arises between some of the parties only, the court may require the expense of such controversy to be paid by any of, or all, the parties thereto.

SECTION 15. **ORS 105.280 is repealed.**

NECESSARY AND PERMISSIBLE PARTIES AND CLAIMS

SECTION 16. ORS 105.205 is amended to read:

105.205. **(1) As used in ORS 105.205 to 105.420, "Cotenant" means:**

(a)[*When*] **One of** several persons **who** hold real property as tenants in common, in which one or more of them have an estate of inheritance, or for life or years**;**[,] or

(b) [*when*] **One of** several persons **who** hold as tenants in common a vested remainder or reversion in any real property[,]**.**

(2) [*any one or more of them*]**One or more cotenant** may maintain a suit for the partition of the real property according to the respective rights of the [*persons interested therein*]**plaintiffs and defendants**, and for a sale of all or a part of the property if it appears that a partition cannot be had without great prejudice to [*the owner*]**a content**.

SECTION 17. ORS 105.220 is amended to read:

105.220. [*The plaintiff shall make a tenant in dower, by the curtesy, for life or for years of any portion of the entire property and creditors having a lien upon any portion of the property defendants in the suit. When the*]**(1) The plaintiff shall name as defendants in a suit all persons indispensable to the partition, including all:**

(a) Cotenants to an interest in the property that is subject to the partition;

(b) Persons owning a vested or contingent interest in the property that is arising out of, or carved from, or otherwise junior to any cotenant's interest, including persons unknown or unborn; and

(c) Lien creditors, with claims secured in any respect to any portion of a party's interest in the property.

(2) A complaint may additionally name as parties all persons whether known or unknown, claiming any legal or equitable right, title, estate, lien, or interest in the real property described in the complaint adverse to the plaintiff's interest in the property. Any party may perfect or quiet title to property that is subject to a partition action or request adjudication of a right of a party as to any matter originating from or connected to the property, including a lien between any parties.

(3) Except as permitted by this section, a joinder of any other claim to a partition petition may not be permitted.

(4) The court shall decide the nature, extent, priority or validity of a party's lien not previously determined and any other issues as the court directs. Adjudication of liens must precede a partition not made by sale. If a lien is upon an undivided interest or estate of any of the parties and a partition is made, it is thenceforth a lien only upon the share assigned to such party**,**[*;*] but such share shall be first charged with its just proportion of the cost of the partition in preference to such lien.

CONFORMING AND FORM AND STYLE AMENDMENTS

SECTION 18. ORS 105.210 is amended to read:

105.210. (1) [*If*]**Except with respect to heir's property as defined in section 2 of this 2027 Act, if** the court finds that the property can neither be partitioned nor sold without great prejudice to the [*owners*]**cotenants**, the court may receive evidence as to the value of the respective interests, fix the value thereof, and make an order permitting an [*owner*]**cotenant** to borrow money upon the property with which to pay off the interest, as so fixed, of another [*owner*]**cotenant**. Subject to subsection (2) of this section, an [*owner*]**cotenant** whose interest in the property is to be satisfied shall be fully discharged by proof of payment filed with the court of the amount fixed by the court as the value of that [*owner's*]**cotenant's** interest. A discharged [*owner*]**cotenant** shall have no further interest in or claim upon the property.

(2) A court may not order the discharge of an interest of a public body in real property without the consent of the governing body of the public body.

SECTION 19. ORS 105.250 is amended to read:

105.250. [*When*]**If** it appears that partition cannot be made without prejudice to the rights and interests of some of the parties, the court may adjudge compensation to be made by one party to another on account of the inequality of partition. Compensation [*shall*]**may** not be required to be paid to others by [*owners unknown, nor by infants unless it appears that an infant*]**unknown or unborn parties or by a minor unless the minor** has personal property sufficient for that purpose, and that the interest of the [*infant*]**minor** will be promoted thereby.

SECTION 20. ORS 105.290 is amended to read:

105.290. The proceeds of sale and the securities taken by the referees **or brokers**, or any part thereof, shall be distributed by them to the persons entitled thereto whenever the court so directs. If no such direction is given, all proceeds and securities shall be paid into court or deposited as directed by the court.

SECTION 21. ORS 105.295 is amended to read:

105.295. When the proceeds of sales of any shares or parcel belonging to known persons who are parties to the suit are paid into court, the suit may be continued as between such parties for the determination by the court of their respective claims thereto. Further testimony may be taken in court, [*or by a referee, at the discretion of the court,*] and the court may, if necessary, require the parties to present the facts or law in controversy by pleadings as in an original suit.

SECTION 22. ORS 105.300 is amended to read:

105.300. Whenever any **lien creditor is** party to the suit[*, who holds a lien upon any part of the property*] has other securities for the payment of the amount of the lien, the court may, in its discretion, order the securities to be exhausted before a distribution of the proceeds of sale, or may order a just deduction to be made from the amount of the lien on the property.

SECTION 23. ORS 105.305 is amended to read:

105.305. The court shall, in the order of sale, direct the terms of credit which may be allowed for the purchase money of any portion of the premises which it may direct to be sold on credit[*;*] and for that portion of which the purchase money is required by ORS 105.370 to be invested[*for the benefit of unknown owners, infants or parties out of the state. The referees*]**. A broker** may take separate mortgages and other securities for the whole or convenient portions of the purchase money of such parts of the property as are directed by the court to be sold on credit, in the name of the clerk of the court and the clerk's successor in office. [*When*]**If** there is a known [*owner of full age*]**cotenant of 18 years of age or older**, the security for the share of the [*owner*]**cotenant** shall be executed in the name of the [*owner*]**cotenant**.

SECTION 24. ORS 105.320 is amended to read:

105.320. **(1)** Any [*person*]**cotenant** entitled to an estate for life or years in any undivided part of the property, whose estate has been sold, [*shall be*]**is** entitled to receive such sum in gross as is, deemed, upon principles of law applicable to annuities, a reasonable satisfaction for the estate.

(2) If the [*person so entitled*]**cotenant** consents to that sum, the person shall accept it by executing an instrument that is duly acknowledged or proved in the same manner as deeds for the purpose of record, and filed with the clerk.

(3) If a cotenant does not consent to that sum, the court shall invest the whole proceeds of the sale of the cotenant's undivided part of the property for the cotenant's benefit and shall pay the income of the investment for the benefit of the cotenant during the remaining duration of the cotenant's estate. Upon termination of the cotenant's estate, the court shall, as provided in ORS 105.340, invest, secure or pay over the principal of the investment and any income not yet paid to the cotenant.

SECTION 25. ORS 105.350 is amended to read:

105.350. **(1)** [*Neither of the referees, nor any person for the benefit of either of them, shall*] **A referee, broker or surveyor appointed under ORS 105.205 to 105.405 must be disinterested and impartial with respect to any party to the action and may not** be interested in any purchase at a partition sale[*;*]**.**

(2) [*nor shall the*]**A** guardian or conservator of [*the estate of an infant party*]**a party may not** be interested in the purchase of any real property that is the subject of the suit, except for the benefit of the [*infant*]**party**.

(3) All sales **or conveyances** contrary to the provisions of this section are void.

SECTION 26. ORS 105.355 is amended to read:

105.355. After completing the sale the referees shall report it to the court with the description of the different parcels of land sold to each purchaser, the name of the purchaser, the price paid or secured, the terms and conditions of the sale and the securities, if any, taken. The report shall be filed with the clerk.

SECTION 27. ORS 105.360 is amended to read:

105.360. The report of sale may be excepted to by any party entitled to a share of the proceeds in like manner and with like effect as in ordinary cases. If the sale is confirmed the order of confirmation shall direct the [*referees*]**brokers** to execute conveyances and take securities pursuant to the sale, which acts they are hereby authorized to do. The order shall discharge the property of the estate or interest of every person mentioned in ORS 105.260 and of tenants for life or years of the property sold. The order shall be binding and conclusive upon all such persons as if it were a judgment for the partition of such property and except as provided in ORS 105.350, upon all persons whomsoever as to the regularity of the proceedings concerning such sale.

SECTION 28. ORS 105.365 is amended to read:

105.365. [*When a party*]**If a cotenant** entitled to a share of the property, or [*an encumbrancer*]**a lien creditor** entitled to have the lien of [*the encumbrancer*] paid out of the sale, becomes a purchaser, [*the referees may take a receipt*]**a broker may credit the purchaser** for so much of the proceeds of the sale as belongs to the [*party or the encumbrancer*]**cotenant or creditor**.

SECTION 29. ORS 105.370 is amended to read:

105.370. **(1)** [*When there are proceeds*]**Proceeds** of sale belonging to [*an unknown owner*]**cotenant who is unknown or who cannot be located must be reported and delivered to the State Treasurer as unclaimed property as provided in ORS 98.352.**

(2)[*, or*]**Proceeds of a sale belonging** to a person without the state who has no legal representative within it[*, or when there are proceeds*]**or** arising from the sale of an estate subject to the prior estate of a tenant for life or years, which are paid into court or otherwise deposited by order of the court, such proceeds shall be invested in securities on interest for the benefit of the persons entitled thereto .

__SECTION 30.__ ORS 105.390 is amended to read:

105.390. When the share of [*an infant*]**a minor or unborn person** is sold, the proceeds of the sale may be paid by the [*referees*]**brokers** making the sale to the guardian of the [*infant*]**person**, the conservator of the estate of the [*infant*]**person** or the special guardian appointed for the [*infant*]**person** in the suit, upon the guardian or conservator giving the security required by law or ordered by the court.

__SECTION 31.__ ORS 105.400 is amended to read:

105.400. When [*an infant*]**a minor** or an **unborn or** incapacitated person is interested in real estate held in common or in any other manner so as to authorize the infant or incapacitated person being made a party to an action for the partition thereof, the guardian of the [*infant or incapacitated*] person or the conservator of the estate of the [*infant or incapacitated*]**fere** person may consent to a partition without suit and agree upon the share to be set off to the [*infant or incapacitated*] person. When the court so orders, the guardian or conservator may execute a release on behalf of the [*infant or other incapacitated*] person to the owners of the other shares of the parts to which they are respectively entitled.

__SECTION 32.__ ORS 105.225, 105.325 and 105.330 are repealed.

BOILERPLATE LANGUAGE

__SECTION 33.__ __Applicable date.__ Sections 1 to 10 of this 2027 Act apply to partition actions filed on or after the effective date of this 2027 Act.

__SECTION 34.__ __Captions.__ The unit and section captions used in this 2027 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2027 Act.