



House Bill 744

- Effective January 1, 2013
- Amends Part 2 of Article 7 of Chapter 6 of Title 44 OCGA
- Originated in the Uniform Law Commission

Defines Heir Property

Real Property held in tenancy in common, where:

- No cotenancy agreement exists
- Title was acquired from a relative
- 20% Rule
 - 20% or more of the cotenants are relatives
 - 20% or more of the cotenants who are relatives held by cotenants who are relatives
 - 20% or more of the interest are held by an individual who acquired title from a relative

Notice by Posting

- Affects notice by publication request
- Within 10 days after court determination of heirs property
- Post conspicuous sign on the property
- Must state action, court and common name of property

Establishing Value

- Provides for court to determine value if cost of appraisal outweighs value
- Appraiser must be disinterested and licensed
- Requires separate hearing to determine fair market value
 - whether or not objection filed
 - allows consideration of other evidence of value

Bar to Partitioners

- Appointed commissioners must be:
 - Disinterested
 - Impartial
 - Neither a party nor a participant in the action

Consideration of Subjective Factors

- Whether the property can be practically divided
- Whether partition would decrease value
- Duration of ownership
- Sentimental attachment
- Lawful use and degree of harm to cotenants
- Degree of contributed pro rata share of taxes, insurance and expenses
- Any other relevant factor

Extension of Buyout

- Buyout time period extended to 105 days
- No changes to provision on pooling resources to complete purchase

Allocating for the unknown

- Court can allocate a part of property to unknown or unascertainable cotenants
- The allocated property shall remain undivided
- Court can require payment to be included with its final determination to make partition in kind just and proportionate in value.

Open Market Sale

- Property shall be offered by a disinterested, licensed real estate broker
- Property shall be offered for at least the determined value
- Broker must follow reporting requirements

SO WHAT?

What does this mean for heir property owners?

- Provides greater protection for preserving land interests
- Assures a reasonable value for partition by sale
- Considers meaning of land for partition in kind

Uniform Partition of Heirs Property Act

in Georgia



Defines Heir Property

- Real Property held in tenancy in common where:
 - No co-tenancy agreement exists
 - Title was acquired from a relative
 - 20% or more of the co-tenants are relatives
 - 20% or more of the interests in the property are held by co-tenants who are relatives
 - 20% or more of the interests are held by an individual who acquired title from a relative

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- Court can allocate a part of property to unknown or unlocatable co-tenants
- The allocated property shall remain available to the individual with the best information to make partition is best just as if proportionate in value

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Individual v



Changes to Current Law

- Defines Heir Property
- Requires notice by posting
- Changes determination of value process
- Bars partitioners from participating in action
- Increases buyout time period
- Allocates property to unlocatable cotenants
- Considers subjective factors for partition by sale
- Orders open market sale for partition by sale

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