

**Sixty-sixth Legislative Assembly of North Dakota
In Regular Session Commencing Thursday, January 3, 2019**

HOUSE BILL NO. 1284
(Representative Headland)
(Senator Wanzek)

AN ACT to create and enact section 32-16-49 of the North Dakota Century Code, relating to equitable buyouts of cotenant interests in an estate of inheritance subject to a partition; and to amend and reenact section 30.1-20-11 of the North Dakota Century Code, relating to partitions.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 30.1-20-11 of the North Dakota Century Code is amended and reenacted as follows:

30.1-20-11. (3-911) Partition for purpose of distribution.

When two or more heirs or devisees are entitled to distribution of undivided interests in any real or personal property of the estate, the personal representative or one or more of the heirs or devisees may petition the district court prior to the formal or informal closing of the estate, to make partition. After notice to the interested heirs or devisees, the district court shall partition the property in the same manner as provided by chapter 32-16. The district court may direct the personal representative to sell any property which cannot be partitioned without prejudice to the owners and which cannot conveniently be allotted to any one party, except if a buyout is agreed upon pursuant to section 32-16-49.

SECTION 2. Section 32-16-49 of the North Dakota Century Code is created and enacted as follows:

32-16-49. Buyouts.

Notwithstanding any other provision of law, if the court determines property subject to a partition action under section 32-16-01 is held by two or more cotenants in which one or more cotenants have an estate of inheritance, and a sale of the property is requested by one or more cotenant or is required to avoid an inequitable partition, the court shall appoint a referee to obtain an appraisal to determine the fair market value of the property. Upon the determination of the fair market value of the property, the court shall notify all parties to the partition action of the determination and amount of the appraisal. Upon receipt of the appraisal, a cotenant may purchase all interests of cotenants requesting a sale of the property, at the appraised fair market value of the selling cotenant's fractional interest in the property. If more than one cotenant offers to purchase the interests of the cotenants requesting a sale of the property, the court shall equitably allocate the interests among the purchasing cotenants.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-sixth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1284.

House Vote: Yeas 90 Nays 1 Absent 3

Senate Vote: Yeas 45 Nays 0 Absent 2

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2019.

Approved at _____ M. on _____, 2019.

Governor

Filed in this office this _____ day of _____, 2019,

at _____ o'clock _____ M.

Secretary of State