

HOUSE BILL NO. 1284

Introduced by

Representative Headland

Senator Wanzek

1 A BILL for an Act to create and enact section 32-16-49 of the North Dakota Century Code,
2 relating to equitable buyouts of cotenant interests in an estate of inheritance subject to a
3 partition; and to amend and reenact section 30.1-20-11 of the North Dakota Century Code,
4 relating to partitions.

5 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

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

8 **30.1-20-11. (3-911) Partition for purpose of distribution.**

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

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

19 **32-16-49. Buyouts.**

20 Notwithstanding any other provision of law, if the court determines property subject to a
21 partition action under section 32-16-01 is held by two or more cotenants in which one or more
22 cotenants have an estate of inheritance, and a sale of the property is requested by one or more
23 cotenant or is required to avoid an inequitable partition, the court shall appoint a referee to
24 obtain an appraisal to determine the fair market value of the property. Upon the determination of

1 the fair market value of the property, the court shall notify all parties to the partition action of the
2 determination and amount of the appraisal. Upon receipt of the appraisal, a cotenant may
3 purchase all interests of cotenants requesting a sale of the property, at the appraised fair market
4 value of the selling cotenant's fractional interest in the property. If more than one cotenant offers
5 to purchase the interests of the cotenants requesting a sale of the property, the court shall
6 equitably allocate the interests among the purchasing cotenants.