

JAN 23 2020

A BILL FOR AN ACT

RELATING TO PARTITION ACTIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that the courts have the
2 power to appoint commissioners with certain powers in partition
3 actions, including the sale and division of real property.
4 Commissioners may also be appointed to investigate and report on
5 the sale of certain real property in actions for foreclosure,
6 partition, and quiet title, and to execute deeds and related
7 conveyance documents for real property subject to partition.
8 Because of the importance of land and land ownership in the
9 State, it is critical to ensure that, in partition actions, all
10 parties are fully informed of any and all applications the
11 commissioner may intend to submit, including applications for
12 water meter permits, and have the opportunity to object and be
13 heard at a hearing prior to the commissioner submitting any such
14 applications.

15 Accordingly, the purpose of this Act is to:

16 (1) Protect the rights of interested parties by requiring
17 commissioners in partition actions to file reports



1 with the court and fully inform all interested parties
2 of any applications and the specific details therein
3 that may be required for the partition or division of
4 the property, including applications for water meter
5 permits;

6 (2) Require commissioners to provide interested parties
7 the right to object and be heard at a hearing; and

8 (2) Require commissioners to file a report with the court
9 and submit proposed language of any deed of partition
10 or of sale prior to the execution of such deeds.

11 SECTION 2. Section 668-13, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "§668-13 Commissioners in partition[-]; reports to court
14 and interested parties required. (a) The court shall have

15 power in its discretion to appoint a commissioner or
16 commissioners to act under the directions and subject to the
17 approval of the court, and may invest them with power to
18 investigate and report to the court as to the practicability of
19 partition of the property in whole or in part, and where
20 partition is deemed practicable to prepare a plan for division
21 of the property into lots or parcels, including provision for



1 any necessary roads or rights-of-way, and making of maps and
2 surveys, and for appraisements, or any other matters, referred
3 to them by the court, with their recommendations as to the
4 division or allotment of the parcels among the parties
5 interested.

6 (b) Prior to submitting or filing any applications with
7 applicable departments, state agencies, or counties to
8 effectuate the partition or division of real property, including
9 any applications for water meter permits, the commissioner shall
10 first file a report with the court and fully inform all
11 interested parties of the specific details and requirements that
12 will be necessary to carry out the partition of the property and
13 shall provide the interested parties with the opportunity to
14 object and be heard at a hearing prior to submitting any such
15 applications. The commissioner's report shall attest that the
16 commissioner has made a good faith effort to consult with every
17 person claiming an interest in the property, and if consultation
18 was not made, shall report the reason why.

19 (c) The commissioners shall have power, as and when
20 directed by the court, to make deeds of partition or of sale of
21 the property[-]; provided that the court has approved the



1 commissioners' reports and the proposed language of any deeds of
2 partition or of sale.

3 (d) Before making any sale the commissioners shall each
4 give security approved by the court conditioned for the faithful
5 discharge of their duties. Upon the filing of any report by
6 commissioners in partition the parties may have such time as the
7 court may allow to file any objections thereto or to any part
8 thereof, and if any objections are filed the court shall upon
9 notice hear and determine the same."

10 SECTION 3. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

12 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY: J. Kalin Gish



S.B. NO. 3004

Report Title:

Real Property; Partition Actions; Commissioners; Reports

Description:

Requires commissioners in partition actions to file reports with the court and fully inform all interested parties of any intended applications to be filed with any department, state agency, or county to carry out the partition or division of real property, including water meter permits. Requires commissioners to provide interested parties the right to object to the report and be heard at a hearing. Requires commissioners to file a report with the court including proposed language of any deed of partition or of sale.

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