PROPERTY CODE

TITLE 4. ACTIONS AND REMEDIES

CHAPTER 23. PARTITION

Sec. 23.001. PARTITION. A joint owner or claimant of real property or an interest in real property or a joint owner of personal property may compel a partition of the interest or the property among the joint owners or claimants under this chapter and the Texas Rules of Civil Procedure.

Acts 1983, 68th Leg., p. 3513, ch. 576, Sec. 1, eff. Jan. 1, 1984.

Sec. 23.002. VENUE AND JURISDICTION. (a) A joint owner or a claimant of real property or an interest in real property may bring an action to partition the property or interest in a district court of a county in which any part of the property is located.

(b) A joint owner of personal property must bring an action to partition the property in a court that has jurisdiction over the value of the property.

Acts 1983, 68th Leg., p. 3513, ch. 576, Sec. 1, eff. Jan. 1, 1984.

Sec. 23.003. EFFECT ON FUTURE INTERESTS. A partition of real property involving an owner of a life estate or an estate for years and other owners of equal or greater estate does not prejudice the rights of an owner of a reversion or remainder interest.

Acts 1983, 68th Leg., p. 3513, ch. 576, Sec. 1, eff. Jan. 1, 1984.

Sec. 23.004. EFFECT OF PARTITION. (a) A person allotted a share of or an interest in real property in a partition action holds the property or interest in severalty under the conditions and covenants that applied to the property prior to the partition.

(b) A court decree confirming a report of commissioners in partition of real property gives a recipient of an interest in the property a title equivalent to a conveyance of the interest by a warranty deed from the other parties in the action.

(c) Except as provided by this chapter, a partition of real property does not affect a right in the property.

Acts 1983, 68th Leg., p. 3513, ch. 576, Sec. 1, eff. Jan. 1, 1984.

Sec. 23.005. FEES. The judge of a court that hears an action to partition real property shall examine the report of the commissioners appointed to partition the property and shall determine from the report and from evidence submitted by the parties the complexity and difficulty of making the partition. The court shall then award the commissioners, and any surveyor appointed by the court or retained by the commissioners, a reasonable fee for the services rendered. The fees awarded shall be taxed and collected as costs of court in the same manner as the other costs in the action.

Acts 1983, 68th Leg., p. 3514, ch. 576, Sec. 1, eff. Jan. 1, 1984. Amended by Acts 1991, 72nd Leg., ch. 443, Sec. 1, eff. Sept. 1, 1991.

Sec. 23.006. ACCESS EASEMENT FOR PARTITIONED PROPERTY. (a) Unless waived by the parties in an action to partition property under this chapter, the commissioners appointed to partition property shall grant a nonexclusive access easement on a tract of partitioned property for the purpose of providing reasonable ingress to and egress from an adjoining partitioned tract that does not have a means of access through a public road or an existing easement appurtenant to the tract. The order granting the access easement shall contain a legal description of the easement.

(b) Unless waived by the parties in writing in a private partition agreement, the property owner of a partitioned tract that has a means of access through a public road or an existing easement appurtenant to the tract shall grant in the private partition agreement a nonexclusive access easement on the owner's partitioned tract for the purpose of providing reasonable ingress to and egress from an adjoining partitioned tract that does not have a means of access through a public road or an existing easement appurtenant to the tract.

(c) The access easement may not be a width greater than a width prescribed by a municipality or county for a right-of-way on a street or road. The access easement route must be the shortest route to the adjoining tract that:

(1) causes the least amount of damage to the tract subject to the easement; and

(2) is located the greatest reasonable distance from the primary residence and related improvements located on the tract subject to the easement.

(d) The adjoining tract owner who is granted an access easement under this section shall maintain the easement and keep the easement open for public use.

Added by Acts 2001, 77th Leg., ch. 647, Sec. 1, eff. Sept. 1, 2001.