

By: Representative Watson

To: Judiciary A

HOUSE BILL NO. 870

1 AN ACT TO AMEND SECTIONS 11-21-11 AND 11-21-27, MISSISSIPPI
2 CODE OF 1972, TO REQUIRE AN APPRAISAL ON LAND SOLD IN A PARTITION
3 SUIT; AND FOR RELATED PURPOSES.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

5 SECTION 1. Section 11-21-11, Mississippi Code of 1972, is
6 amended as follows:

7 11-21-11. If, upon hearing, the court be of the opinion that
8 a sale of the lands, or any part thereof, will better promote the
9 interest of all parties than a partition in kind, or if the court
10 be satisfied that an equal division cannot be made, it shall order
11 a sale of the lands, or such part thereof as may be deemed proper,
12 and a division of the proceeds among the cotenants according to
13 their respective interests. The court may appoint a master to
14 make the sale, and may make all proper orders to protect the
15 rights of the parties interested. The court may order the sale of
16 a part of the land and the partition in kind of the residue.

17 Before the court shall order a sale of the lands, the court
18 shall cause an appraisal to be made of the property, the expense
19 of which shall be taxed and collected as costs in the proceedings.
20 Whenever the court causes an appraisal of the property to be made,
21 then, subsequent to the receipt and filing of the appraisal with
22 the court, the court shall hold in abeyance its order for sale of
23 the land for a period of thirty (30) days in order to allow the
24 parties the opportunity to reach an agreement as to a partition in
25 kind or sale of the lands.

26 SECTION 2. Section 11-21-27, Mississippi Code of 1972, is

27 amended as follows:

28 11-21-27. If, after a judgment for partition and the
29 appointment of masters, it shall appear from the report of the
30 masters, or on exceptions to their report, that a just and equal
31 division of the land cannot be made, or that a sale will better
32 promote the interest of all the cotenants, the court shall order a
33 sale of the land, or such part thereof as may be deemed proper,
34 and a division of the proceeds among those interested, as provided
35 for.

36 Before the court shall order a sale of the lands, the court
37 shall cause an appraisal to be made of the property, the expense
38 of which shall be taxed and collected as costs in the proceedings.
39 Whenever the court causes an appraisal of the property to be made,
40 then, subsequent to the receipt and filing of the appraisal with
41 the court, the court shall hold in abeyance its order for sale of
42 the land for a period of thirty (30) days in order to allow the
43 parties the opportunity to reach an agreement as to a partition in
44 kind or sale of the lands.

45 SECTION 3. This act shall take effect and be in force from
46 and after July 1, 1999.