

By: Representative Banks

To: Judiciary A

HOUSE BILL NO. 1247

1 AN ACT TO AMEND SECTIONS 11-21-11, 11-21-27 AND 11-21-73,
2 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT FAMILY MEMBERS AND
3 CO-OWNERS SHALL HAVE THE RIGHT OF FIRST REFUSAL IN A PARTITION
4 SALE; AND FOR RELATED PURPOSES.

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

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

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

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



29 **SECTION 2.** Section 11-21-27, Mississippi Code of 1972, is
30 amended as follows:

31 11-21-27. If, after a judgment for partition and the
32 appointment of masters, it shall appear from the report of the
33 masters, or on exceptions to their report, that a just and equal
34 division of the land cannot be made, or that a sale will better
35 promote the interest of all the cotenants, the court shall order a
36 sale of the land, or such part thereof as may be deemed proper,
37 and a division of the proceeds among those interested, as provided
38 for. Family members and co-owners shall have the right of first
39 refusal in the sale.

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

49 **SECTION 3.** Section 11-21-73, Mississippi Code of 1972, is
50 amended as follows:

51 11-21-73. A tenant in common of personal property, not
52 exceeding in value the amount provided in Section 9-11-9, may
53 apply for a partition of it by petition in writing to the county
54 court of the county in which the property or some part of it may
55 be, or, in counties not having a county court, to the justice
56 court of the county in which the property or some part of it may
57 be. Thereupon, all the cotenants shall be summoned and the rights
58 of parties ascertained, and an order made for a division of the
59 property. If the property be incapable of division in kind
60 according to the several interests, or if a sale and division of
61 the proceeds will better promote the interests of parties, the



62 county court or justice court, as the case may be, shall order a
63 sale and a division of its proceeds, and may designate a person to
64 make the sale, and may issue execution specially framed to that
65 end, and make all orders necessary or proper to protect the rights
66 of parties and to effect a sale and division of the proceeds.
67 Family members and co-owners shall have the right of first refusal
68 in the sale.

69 **SECTION 4.** This act shall take effect and be in force from
70 and after July 1, 2002.

