

REPORT OF CONFERENCE COMMITTEE

MR. SPEAKER AND MR. PRESIDENT:

We, the undersigned conferees, have had under consideration the amendments to the following entitled BILL:

H. B. No. 1086: Land partitions; revise provision that regulate.

We, therefore, respectfully submit the following report and recommendation:

1. That the Senate recede from its Amendment No. 1.
2. That the House and Senate adopt the following amendment:

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

19 **SECTION 1.** Section 11-21-3, Mississippi Code of 1972, is
20 amended as follows:

21 11-21-3. (1) Partition of land held by joint tenants,
22 tenants in common, or coparceners, having an estate in possession
23 or a right of possession and not in reversion or remainder,
24 whether the joint interest be in the freehold or in a term of
25 years not less than five (5), may be made by judgment of the
26 chancery court of that county in which the lands or some part
27 thereof, are situated; or, if the lands be held by devise or
28 descent, the division may be ordered by the chancery court of the
29 county in which the will was probated or letters of administration
30 granted, although none of the lands be in that county.

31 However, any person owning an indefeasible fee simple title
32 to an undivided interest in land may procure a partition of said



33 land and have the interest of such person set apart in fee simple
34 free from the claims of life or other tenants, remaindermen or
35 reversioners, provided the life or other tenants, and other known
36 living persons having an interest in the lands, are made
37 defendants if they do not join in the proceeding as plaintiffs.

38 (2) The chancery court, upon a hearing with notice to all
39 parties whose removal is sought, may order any joint tenant, in
40 common, or coparcener, or any other person who is on the land to
41 leave the land and remove only his or her own property from the
42 land. The chancery court order shall include language that, if
43 any person or property remains on the land following thirty (30)
44 day after entry of the order requiring their removal, the sheriff
45 shall remove the person and his or her property from the land.

46 **SECTION 2.** The following shall be codified as Section
47 11-21-77.1, Mississippi Code of 1972:

48 11-21-77.1. Any court, in its discretion, may order any
49 tenant in common or any other person who has possession or control
50 over the property to return the property or separate himself or
51 herself from the property. The chancery court order shall include
52 language that, if any person or property remains on the land
53 following thirty (30) days after entry of the order requiring
54 their removal, the sheriff shall remove the person and his or her
55 property from the land.

56 **SECTION 3.** Section 11-21-77, Mississippi Code of 1972, is
57 amended as follows:



58 11-21-77. If the petitioner makes an affidavit at the
59 commencement of his suit, or afterwards, of his right as a tenant
60 in common, and that there is danger of the removal of the
61 property, so as to defeat or endanger his right, the county court
62 or the justice of the peace, as the case may be, shall issue a
63 writ for the seizure of the property; and if the person having it
64 in possession will not give a bond with sufficient sureties,
65 approved by the officer executing the writ, conditioned to have
66 the property forthcoming to abide the final order which shall be
67 made in the case, payable to the petitioner, in a sum sufficient
68 to cover his interest in the property, it shall be delivered to
69 petitioner on his giving a bond, payable to the person from whom
70 it was taken, with sufficient sureties, approved as above
71 provided, in a penalty equal to the value of the interest of such
72 person, conditioned to have the property before the county court
73 or the justice of the peace, as the case may be, to abide the
74 final order in the case; but if neither party give the required
75 bond, the property shall remain in the hands of the officer,
76 unless it be perishable or expensive to keep, in which case it
77 shall be sold, as such property seized under attachment is sold,
78 and the proceeds of the sale shall be disposed of according to the
79 rights of the parties.

80 **SECTION 4.** Section 91-31-15, Mississippi Code of 1972, is
81 amended as follows:



82 91-31-15. (1) **Partition alternatives.** (a) If all the
83 interests of all cotenants that requested partition by sale are
84 not purchased by other cotenants pursuant to Section 91-31-13, or
85 if after conclusion of the buyout under Section 91-31-13, a
86 cotenant remains that has requested partition in kind, the court
87 shall order partition in kind unless the court, after
88 consideration of the factors listed in Section 91-31-17, finds
89 that partition in kind will result in manifest prejudice to the
90 cotenants as a group. In considering whether to order partition
91 in kind, the court shall approve a request by two (2) or more
92 parties to have their individual interests aggregated.

93 (b) If the court does not order partition in kind under
94 subsection (a), the court shall order partition by sale pursuant
95 to Section 91-31-19 or, if no cotenant requested partition by
96 sale, the court shall dismiss the action.

97 (c) If the court orders partition in kind pursuant to
98 subsection (a), the court may require that one or more cotenants
99 pay one or more other cotenants amounts so that the payments,
100 taken together with the value of the in-kind distributions to the
101 cotenants, will make the partition in kind just and proportionate
102 in value to the fractional interests held.

103 (d) If the court orders partition in kind, the court
104 shall allocate to the cotenants that are unknown, unlocatable, or
105 the subject of a default judgment, if their interests were not
106 bought out pursuant to Section 91-31-13, a part of the property



107 representing the combined interests of these cotenants as
108 determined by the court and this part of the property shall remain
109 undivided.

110 (2) The chancery court, upon a hearing with notice to all
111 parties whose removal is sought, may order any joint tenant, in
112 common, or coparcener, or any other person who is on the land to
113 leave the land and remove only his or her own property from the
114 land. The chancery court order shall include language that, if
115 any person or property remains on the land following thirty (30)
116 day after entry of the order requiring their removal, the sheriff
117 shall remove the person and his or her property from the land.

118 **SECTION 5.** Section 91-31-5, Mississippi Code of 1972, is
119 amended as follows:

120 91-31-5. **Applicability; relation to other law.** (a) This
121 chapter applies to partition actions filed on or after July 1,
122 2020.

123 (b) In an action to partition real property under Title 11,
124 Chapter 21, Mississippi Code of 1972, the court shall determine
125 whether the property is heir property. If the court determines
126 that the property is heir property, the property must be
127 partitioned under this chapter unless * * * the party filing the
128 motion requests to proceed under Sections 11-21-1 et seq.

129 (c) This chapter supplements Title 11, Chapter 21,
130 Mississippi Code of 1972, and, if an action is governed by this



131 chapter, replaces provisions that are inconsistent with this
132 chapter.

133 **SECTION 6.** This act shall take effect and be in force from
134 and after July 1, 2024.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

1 AN ACT TO AMEND SECTION 11-21-3, MISSISSIPPI CODE OF 1972, TO
2 AUTHORIZE A COURT, IN ITS DISCRETION, TO ORDER A JOINT TENANT,
3 TENANT IN COMMON, COPARCENER OR ANY OTHER PERSON ON LAND IN
4 DISPUTE FOR PARTITION TO LEAVE THE LAND OR BE REMOVED; TO CREATE
5 NEW SECTION 11-21-77.1, MISSISSIPPI CODE OF 1972, TO AUTHORIZE ANY
6 COURT, IN ITS DISCRETION, TO ORDER ANY TENANT IN COMMON OR ANY
7 OTHER PERSON WHO HAS POSSESSION OR CONTROL OVER PROPERTY THAT IS
8 IN DISPUTE FOR PARTITION TO RETURN THE PROPERTY OR SEPARATE
9 HIMSELF OR HERSELF FROM THE PROPERTY; TO AMEND SECTION 11-21-77,
10 MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING SECTION; TO
11 AMEND SECTION 91-31-5, MISSISSIPPI CODE OF 1972, TO PROVIDE
12 DISCRETION TO THE PERSON FILING THE PARTITION ACTION TO DECIDE IF
13 THE UNIFORM HEIR PROPERTY PROVISIONS WILL BE APPLIED; TO AMEND
14 SECTION 91-31-15, MISSISSIPPI CODE OF 1972, TO AUTHORIZE A COURT,
15 IN ITS DISCRETION, TO ORDER A JOINT TENANT, TENANT IN COMMON,
16 COPARCENER OR ANY OTHER PERSON ON LAND IN DISPUTE FOR PARTITION TO
17 LEAVE THE LAND OR BE REMOVED; AND FOR RELATED PURPOSES.

CONFEREES FOR THE HOUSE

CONFEREES FOR THE SENATE

X (SIGNED)
Hood

X (SIGNED)
Wiggins

X (SIGNED)
Yates

X (SIGNED)
McCaughn

X (SIGNED)
Sanford

(NOT SIGNED)
Blackmon

