

651.18 Procedure for partition by sale.

1. A referee appointed by the court to partition property by sale shall qualify by taking an oath. A bond shall not be required before the referee conveys real property unless the referee is required to do any of the following:

- a. Sell personal property.
- b. Take possession of real property.
- c. Receive a payment on the sale before conveyance of the real property.

2. Before conveying real property, the referee shall give bond in the amount of one hundred twenty-five percent of the total sale price of the real property, payable to the parties entitled to the proceeds from the sale, and conditioned on the faithful discharge of the referee's duties.

3. The referee shall file a report with the court that provides all of the following:

a. A recommendation for the appropriate public or private sale process to offer the property for sale, including but not limited to a public auction or private listing.

b. A copy of any appraisal for the property to be partitioned if required by the court.

4. The court shall promptly set a time and place for a hearing on the referee's report. The referee shall provide notice of the hearing to all interested parties.

5. After the hearing the court may approve, modify, or disapprove the referee's report. If the court orders the property to be partitioned by sale, the referee shall offer the property for sale pursuant to the court order.

6. The referee shall give notice of the time and place of a public sale of the property by two separate publications, at least six days apart, in a newspaper of general circulation in the county where the public sale of the property is to be held. The last publication shall be at least seven days prior to a public sale of real estate and at least four days prior to a public sale of personal property. If authorized by the court, the referee may advertise the sale beyond the required notice and may employ an auctioneer or assistant to assist the referee with the sale of the property. If allowed by the court, the expense of such shall be taxed as costs.

7. The referee shall report all proposed sales to the court. The court shall promptly set a time and place for a hearing and the referee shall give notice to all interested parties. Notice of the hearing shall also be given to any party who files a request with the clerk of court, with the party's name and the address where notice is to be sent, before the referee's report is approved by the court. The clerk shall docket the request and transmit a copy to the referee.

8. After the hearing the court may approve or disapprove the sale of the property. The court may expressly order a private sale of the property for less than the appraised value of the property.

9. Real property shall not be conveyed to a buyer until a partition by sale is approved by court order. Real property shall not be conveyed to a buyer until the sale price for such property has been paid in full.

10. If the court disapproves the partition by sale of a property, all moneys paid or securities given shall be returned to the persons entitled to such.

11. The court may require a party entitled to sale proceeds from a property partitioned by sale to give satisfactory security to refund any proceeds received, with interest, before such party receives proceeds arising from the sale in the event the court later rules such party is not entitled to the proceeds.

[2018 Acts, ch 1108, §18](#)