

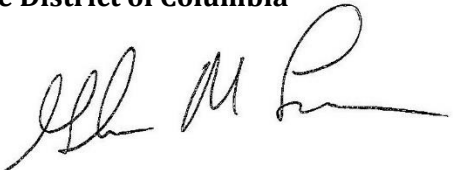
Government of the District of Columbia  
Office of the Chief Financial Officer



Glen Lee  
Chief Financial Officer

**MEMORANDUM**

**TO:** The Honorable Mendelson  
Chairman, Council of the District of Columbia

**FROM:** Glen Lee  
Chief Financial Officer 

**DATE:** August 25, 2022

**SUBJECT:** Fiscal Impact Statement – Partition of Real Property Act of 2022

**REFERENCE:** Bill 24-156, Committee Print as provided to the Office of Revenue  
Analysis on July 21, 2022

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**Conclusion**

Funds are sufficient in the fiscal year 2023 through fiscal year 2026 budget and financial plan to implement the bill.

**Background**

When a property owner in the District dies without a will, real estate passes to the landowner's heirs as tenants-in-common under law unless the owner specifies an alternative form of ownership in an estate plan. Any individual tenant can sell their share of ownership without the consent of the other cotenants. Real estate investors can purchase a tenant's share and file a partition by sale<sup>1</sup> with the court to force a sale of the property. This can result in an investor acquiring the entire property for a price well below fair market value.

The bill establishes several procedural protections for cotenants who are not the cotenant requesting a partition by sale. Specifically, the bill:

- Requires a public notice be placed on the real property that is the subject of the partition proceedings;
- Requires the court to determine the fair market value of the real property by ordering an appraisal from a disinterested real estate appraiser licensed in the District;

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<sup>1</sup> A court-ordered sale of the entire real property, whether by auction, sealed bids, or open market sale.

- Requires the court to send notice to all cotenants, except the cotenant that requested partition by sale, that they have the right to buy all of the interests of the cotenants who requested the partition by sale;
- Allows any cotenant, except the cotenant that filed for partition, to buy a proportional share of the court-determined fair market value;
- Gives cotenants 45 days to exercise their right of first refusal, and if exercised, another 60 days to arrange for financing to purchase shares of the cotenant seeking partition by sale;
- Allows more than one cotenant to buy the shares of the cotenant seeking partition by sale on a pro-rated basis based on existing fractional ownership percentages;
- Allows the court to order a partition in kind<sup>2</sup> if no cotenant elects to purchase shares from the cotenant seeking partition, unless the court determines that partition-in-kind will result in great prejudice to the cotenants as a group;
- Requires that property must be offered for sale on the open market at a price no lower than the court-determined value if the court orders a partition by sale; and
- Allows the court to order a sale by sealed bids or by auction if an open market sale is unsuccessful.

### **Financial Plan Impact**

Funds are sufficient in the fiscal year 2023 through fiscal year 2026 budget and financial plan to implement the bill. Establishing procedural protections for tenants-in-common in the event of a partition by sale does not have an impact on the District's finances. No resources are required to implement the bill.

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<sup>2</sup> The division of real property into physically distinct and separately titled parcels.