



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

**HB0965**

Introduced 01/31/11, by Rep. Michael J. Madigan

#### SYNOPSIS AS INTRODUCED:

735 ILCS 5/17-101

from Ch. 110, par. 17-101

Amends the Code of Civil Procedure. Makes a technical change in a Section concerning partition.

LRB097 03775 AJO 43812 b

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Code of Civil Procedure is amended by  
5 changing Section 17-101 as follows:

6 (735 ILCS 5/17-101) (from Ch. 110, par. 17-101)

7 Sec. 17-101. Compelling partition. When lands, tenements,  
8 or hereditaments are held in joint tenancy or tenancy in common  
9 or other form of co-ownership and ~~and~~ regardless of whether any  
10 or all of the claimants are minors or adults, any one or more  
11 of the persons interested therein may compel a partition  
12 thereof by a verified complaint in the circuit court of the  
13 county where the premises or part of the premises are situated.  
14 If lands, tenements or hereditaments held in joint tenancy or  
15 tenancy in common are situated in 2 or more counties, the venue  
16 may be in any one of such counties, and the circuit court of  
17 any such county first acquiring jurisdiction shall retain sole  
18 and exclusive jurisdiction. Ownership of an interest in the  
19 surface of lands, tenements, or hereditaments by a co-owner of  
20 an interest in minerals underlying the surface does not prevent  
21 partition of the mineral estate. This amendatory Act of the  
22 92nd General Assembly is a declaration of existing law and is  
23 intended to remove any possible conflicts or ambiguities,

1 thereby confirming existing law pertinent to the partition of  
2 interests in minerals and applies to all actions for the  
3 partition of minerals now pending or filed on or after the  
4 effective date of this amendatory Act of the 92nd General  
5 Assembly. Nothing in this amendatory Act of the 92nd General  
6 Assembly shall be construed as allowing an owner of a mineral  
7 interest in coal to mine and remove the coal by the surface  
8 method of mining without first obtaining the consent of all of  
9 the owners of the surface to the mining and removal of coal by  
10 the surface method of mining. Ownership of an interest in  
11 minerals by a co-owner of an interest in the surface does not  
12 prevent partition of the surface. The ownership of an interest  
13 in some, but not all, of the mineral estate by a co-owner of an  
14 interest in other minerals does not prevent the partition of  
15 the co-owned mineral estate.

16 (Source: P.A. 92-379, eff. 8-16-01; 93-925, eff. 8-12-04.)