

Honorable Members of the Rhode Island House Judiciary Committee,

Please accept the enclosed paper for submission as written testimony in connection with the Committee's consideration of proposed legislation to adopt the Uniform Partition of Heirs Property Act (UPHPA) in Rhode Island.

This paper examines the historical development of heirs' property law, its disproportionate impact on families and communities of color, and the ways in which the UPHPA seeks to modernize partition law while balancing traditional principles of property ownership with equity, family preservation, and economic stability. The analysis is offered to provide legal background and policy context that may assist the Committee in its evaluation of the proposed legislation.

I respectfully submit this testimony in the hope that it will be useful to the Committee as it considers the adoption of the UPHPA and its potential effects on property owners across Rhode Island. Thank you for your time, consideration, and continued service to the people of this State.

Respectfully submitted,

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**A PERSONAL TAKE: AN ARGUMENT IN FAVOR OF ADOPTING
THE UNIFORM PARTITION OF HEIRS PROPERTY ACT IN RHODE ISLAND**

Isiah DiPina and Natasha Varyani

INTRODUCTION

This article begins on November 1, 2023, the day Uncle Gary passed away. His death was not only a personal loss for my family, but it also set into motion a legal process that revealed just how vulnerable Rhode Island families are under current partition law. Uncle Gary owned a modest two-bedroom, two-bathroom single-family home at 12 Taft Avenue in North Providence. He lived in the house for almost forty years and though it might have appeared to be an ordinary house, to the DiPina family it carried decades of history.

When my great-grandfather, Joseph DiPina, immigrated from Cape Verde, he settled in North Providence, a predominantly Italian community. In an effort to assimilate, he changed our family name from Pina to DiPina. Through years of hard physical labor at the Port of Providence and by eventually scraping enough money up to build a small business, DiPina Landscaping, he and his children carved out a life. The landscaping business was started by my great-uncle James, one of my great-grandfather's sons, and it grew into a true family operation. All the brothers worked there at one time or another, building the business together and tying the DiPina name to the community through sweat and labor.

Taft Avenue became the heart of that story. My great-grandfather's house passed to my grandfather; my Uncle Gary lived across the street, my great-uncles George "Dorty" and Larzo both had homes across the street, and my great-uncle James lived one block away. For decades, that plot in the heart of North Providence was more than a neighborhood — it was a DiPina

enclave, a living monument to the resilience and work ethic of an immigrant family determined to make a place for itself in America.

When Uncle Gary passed away without a will, his home became heirs' property and passed by the laws of intestate succession. According to those laws, it was automatically divided between his two brothers and one sister. My father, one of Gary's brothers, sought to buy the house and preserve it as part of our family legacy. Yet under Rhode Island's current partition law, he could not. Because his siblings could not come to agreement, the property was forced into a partition sale. The home — fully paid off and irreplaceable to a family legacy — sold for \$360,000, stripping away both family ownership and the sentimental value of a place that anchored our history.

At the time, I was in the midst of applying to law schools. I had no idea what partition law was, let alone how it could erase generations of family heritage in a single proceeding. Living through the ordeal, however, forced me to learn the concept and impact before the doctrine. I became invested in heirs' property and discovered the Uniform Partition of Heirs Property Act (UPHPA). Only then did I realize how different our story could have been. The Act would have given my father the right to buy out his siblings at a fair, court-ordered appraised price, or at minimum, required an open-market sale to capture the home's true value. Instead of being forced into a sale, our family would have legal tools to preserve both our history and our home.

Although I would like to think my family's experience is unique, it reflects a much larger pattern of loss that has long harmed minority, immigrant, and working-class families, particularly those who pass down property without wills. This Article argues that Rhode Island's failure to adopt the UPHPA leaves families like the DiPina family vulnerable to predatory partition sales

and unnecessary dispossession. By enacting the UPHPA, Rhode Island can balance efficiency with fairness, preserve intergenerational wealth, and ensure that family homes remain anchors of stability rather than casualties of outdated law.

Across the United States, heirs' property has been a quiet but devastating source of involuntary land loss, particularly for low-income and minority families. When a homeowner dies without a will or estate plan, their real property often becomes heirs' property, which creates a form of fractional ownership among heirs and complicates title.¹ As the Urban Institute explains, "without a clear title, heirs' property owners cannot access the full wealth-building benefits of homeownership," and they are vulnerable to forced partition sales because any heir—even one with a small interest—can petition the court to divide or sell the property.² This structure, which was once viewed as a convenient form of family ownership, renders the property uniquely unstable, allowing any single heir to force a partition sale and frequently results in the loss of family land to developers or speculators at below-market value.³ Scholars such as Professor Thomas W. Mitchell have traced this phenomenon back to the post-Reconstruction era, when systemic barriers to formal estate planning and discriminatory legal regimes made Black landowners especially vulnerable to partition actions and predatory

¹ Why Your State Should Adopt the Uniform Partition of Heirs Property Act (Ky. Legislature committee doc.), [https://apps.legislature.ky.gov/CommitteeDocuments/Uniform Partition of Heirs Property Act.pdf](https://apps.legislature.ky.gov/CommitteeDocuments/Uniform%20Partition%20of%20Heirs%20Property%20Act.pdf) [hereinafter "Ky. Legislature Committee"].

² Amalie Zinn, *What Is Heirs' Property, and Why Does It Matter for Equitable Homeownership?*, HOUSING MATTERS (Dec. 13, 2023), <https://housingmatters.urban.org/articles/what-heirs-property-and-why-does-it-matter-equitable-homeownership>.

³ Zinn, *supra* note 2.

practices.⁴ What began as a tool for preserving family inheritance has instead become a major driver of racialized dispossession of property across the United States.

As a remedy to the ongoing dispossession of property throughout the United States, a uniform bill—the Uniform Partition of Heirs Property Act (UPHPA)—has been enacted in more than twenty states to address these inequalities within the partition law realm.⁵ Rhode Island, however, has yet to adopt such protections. This legislative gap exposes families—especially those with deep generational ties to inherited homes and land—to the same legal vulnerabilities that have historically undermined Black and minority low-income landowners across the country. The absence of statutory safeguards increases the risks of forced sales and wealth extraction at a moment when policymakers have increasingly recognized the urgent need to address the racial wealth gap and promote intergenerational stability. The U.S. Department of Agriculture has noted that heirs' property complications have been a major factor in the decline of Black-owned farmland, impeding access to loans and federal assistance programs.⁶ In fact, one recent study estimated that Black farmers lost approximately \$326 billion in land value during the twentieth

⁴ Thomas W. Mitchell, *From Reconstruction to Deconstruction: Undermining Black Landownership, Political Independence, and Community Through Partition Sales of Tenancies in Common*, 95 Nw. U. L. Rev. 505 (2001), <https://scholarship.law.tamu.edu/cgi/viewcontent.cgi?article=1783&context=facscholar>.

⁵ Uniform Law Commission, *Partition of Heirs Property Act*, https://www.uniformlaws.org/committees/community-home?CommunityKey=50724584-e808-4255-bc5d-8ea4e588371d&utm_.

⁶ Press Release, U.S. Dep't of Agric. Farm Service Agency, *USDA Announces Program to Help Heirs Resolve Land Ownership, Succession Issues* (Aug. 4, 2021), <https://www.fsa.usda.gov/news-events/news/08-04-2021/usda-announces-program-help-heirs-resolve-land-ownership-succession>.

century—wealth that, if preserved, could have been reinvested into families and communities for generations.⁷

This Article argues that Rhode Island should adopt the Uniform Partition of Heirs Property Act to modernize its partition law, promote equity, and preserve generational wealth. Part I provides a historical overview of heirs' property and the effects of land loss associated with partition sales. Part II examines Rhode Island's current statutory framework and highlights the state's lack of meaningful protection for co-tenants in family-owned land. Part III outlines the key provisions of the UPHPA and the procedural reforms it introduces to balance market efficiency with fairness. Finally, Part IV offers policy reasons for adoption, emphasizing how implementation in Rhode Island would advance racial justice, stabilize property ownership, and align the state with a growing national movement toward equitable land preservation.

I. BACKGROUND: HEIRS' PROPERTY AND ITS COLLATERAL EFFECTS

Heirs' property is one of the most consequential forms of land ownership in the United States. At its core, it refers to real property passed from one generation to another without a will or other formal estate plan, resulting in ownership by multiple descendants as tenants in common.⁸ A tenancy in common is a legal form of shared ownership in which two or more people hold undivided fractional interests in the same property.⁹ "Undivided" means that each person owns a share of the entire parcel rather than a specific portion—for example, no one

⁷ Leah Douglas, *U.S. Black Farmers Lost \$326 Bln Worth of Land in 20th Century -Study*, REUTERS (May 2, 2022),

<https://www.reuters.com/world/us/us-black-farmers-lost-326-bln-worth-land-20th-century-study-2022-05-02/>.

⁸ Zinn, *supra* note 2.

⁹ Tenancy in Common, STEWART REAL ESTATE DICTIONARY (online),

<https://www.stewart.com/en/real-estate-dictionary/tenancy-in-common>.

person owns the kitchen or backyard; instead, everyone owns a percentage of the home as a whole.¹⁰

Tenancy in common differs from joint tenancy, which has its own distinction with a right of survivorship—a legal feature meaning that when one co-owner dies, their share automatically transfers to the surviving co-owners.¹¹ By contrast, tenants in common have no right of survivorship; when one co-tenant dies, their interest passes to their heirs or beneficiaries, not to the other co-tenants as mentioned *supra*.¹² The legal distinction is critical: when a property owner dies without a will, that interest automatically becomes divided among all living heirs, creating multiple new owners with equal rights to use and control the property—also known as tenancy in common.

Over time, as more heirs inherit portions of the same land, ownership becomes increasingly complicated — a process known as fragmentation. Fragmentation also known as fractionated ownership makes heirs property highly vulnerable to forced sales when ownership of a single piece of property is divided among so many people that decision-making becomes nearly impracticable.¹³ A prime example of this is twenty cousins each owning a small share of their grandparents' home and each living across the country—no one can easily sell, repair, or borrow against the property without everyone's consent. This results in a tangle of ownership interests and unclear authority, which some lawyers refer to as a “clouded title.” This framework,

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ Jon Gorey, *Understanding Heirs Property*, LAND LINES MAGAZINE (July 11, 2025),

<https://www.lincolnist.edu/publications/land-lines-magazine/articles/understanding-heirs-property>.

in many cases, can result in tax delinquencies, deterioration of the home, and disagreements within the family structure.

A. Legal Framework: Probate, Intestacy, and the Formation of Heirs' Property

When a person dies, their property typically goes through a process called probate, which is a court-supervised process of validating a will, paying debts, and distributing assets to heirs.¹⁴ But if the person dies intestate—that is, without a will—their property still goes through probate with the caveat of their property being automatically passed to their closest living relatives according to state intestacy laws.¹⁵ Intestacy laws are default inheritance rules established by each state that determine who receives the deceased person's property when there is no will.¹⁶ These statutes generally prioritize close family members—such as spouses, children, or parents—in a hierarchical order of succession, regardless of the deceased's personal wishes or relationship with those heirs.¹⁷ For example, in most states, a surviving spouse and children share the estate equally, while more distant relatives inherit only if no immediate family survives.

For families who do not use the probate process or cannot afford legal representation, title to the property is never formally transferred, leaving it jointly owned by all heirs as tenants in common.¹⁸ Over generations, the number of owners can multiply rapidly.¹⁹ Without formal probate proceedings to consolidate title or transfer ownership, public records become unclear,

¹⁴ *The Probate Process*, AM. BAR ASS'N.,

https://www.americanbar.org/groups/real_property_trust_estate/resources/estate-planning/probate-process.

¹⁵ *Intestacy*, LEGAL INFORMATION INSTITUTE (last updated Feb. 2023),

<https://www.law.cornell.edu/wex/intestacy>.

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ Jennifer Harrington, The Problem with Heirs' Property, CENTER FOR AGRIC. L. & TAX. (Feb. 27, 2022), <https://www.calt.iastate.edu/article/problem-heirs-property>.

¹⁹ *Id.*

taxes may go unpaid, and no single heir can make major decisions about the property.²⁰ The result is heirs' property—land held collectively, often informally, by numerous family members without a clear or marketable title, which exposes such property to many liabilities.²¹ If these issues are unattended, these liabilities may result in forfeiture of an interest in property.²²

The Urban Institute describes heirs' property as "one of the least stable forms of homeownership," explaining that without clear title, families cannot access mortgage loans, disaster-recovery aid, or home repair grants.²³ Because they lack documented ownership, heirs may also be unable to qualify for property tax exemptions, making them more likely to lose their homes through tax foreclosure.

B. Legal Vulnerability: Partition Actions and Forced Sales

The greatest legal vulnerability of heirs' property stems from the partition action—a lawsuit that allows one co-owner to compel the sale or physical division of the jointly owned property.²⁴ Under long-standing common law, any single co-tenant, regardless of how small their ownership share is, has the right to file a partition action.²⁵

When a court receives a partition petition, it can order one of two outcomes. First, the court can order a **partition in kind**: the court physically divides the property among the co-tenants.²⁶ This is only practical for large tracts of land, such as farmland or undeveloped acreage.²⁷ Alternatively, the court can order a **partition by sale**: the court orders the entire

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

²³ Zinn, *supra* note 2.

²⁴ UNIF. PARTITION OF HEIRS PROP. ACT (UNIF. L. COMM'N 2010).

²⁵ Yun-chien Chang & Lee Anne Fennell, PARTITION AND REVELATION, 81 U. CHI. L. REV. 27, 30–31 (2014).

²⁶ *Id.*

²⁷ *Id.*

property sold, usually at public auction, and distributes the proceeds among co-tenants according to their ownership shares.²⁸

Because most heirs' properties fall under the category of single-family homes or small parcels that cannot easily be divided,²⁹ courts almost always order a partition by sale. This means that an heir—or a potential investor who purchased a single heir's fractional share—can force the sale of the entire property, often at prices far below market value, which results in the loss of intergenerational wealth.³⁰

As Professor Mitchell notes, "the USDA's systemic and persistent discrimination against black farmers throughout much of the twentieth century caused many black farmers to lose their land involuntarily through foreclosure and forced others to sell their land under distress conditions".³¹ Once an outsider acquires even a small interest, they can use the partition process to obtain the entire parcel, effectively transferring generational wealth out of the community.³² Professor Mitchell has taken the lead in drafting the UPHPA to curb such abuses by requiring appraisals, notice, and a right of first refusal for family members before any sale can occur.

C. Consequences: Wealth Loss, Fragmented Communities, and Racial Disparities

The harms of heirs' property span both financially and socially across the United States. Economists estimate that between 1910 and 1997, Black Americans lost more than sixteen million acres of land—worth roughly \$326 billion—through forced sales and partition actions.³³

²⁸ *Id.*

²⁹ Sarah Breitenbach, *Heirs' Property Challenges Families, States*, KTOO (July 23, 2015), <https://www.ktoo.org/2015/07/23/heirs-property-challenges-families-states/>.

³⁰ Gorey, *supra* note 13.

³¹ Mitchell, *supra* note 4 at 509.

³² *Id.*

³³ Dania V. Francis et al., *The Contemporary Relevance of Historic Black Land Loss*, AM. BAR Ass'N (Jan. 6, 2023),

These were not isolated losses but a systemic epidemic that continues today, where land-based wealth has been depleted due to the inability to create accumulation of capital, credit, and equity.³⁴

Fragmentation of ownership also weakens communities. Properties held in heirs' title often fall into disrepair because no single person has authority to make improvements or pay taxes.³⁵ When properties deteriorate or become vacant, neighborhood property values decline, municipal tax revenues shrink, and families are displaced.³⁶ Moreover, heirs' property owners cannot access Federal Emergency Management Agency disaster relief or many federal housing programs, because these programs require proof of clear title, which leaves homes held in heirs' property in shambles when natural disasters occur.³⁷

This problem has a distinct racial dimension: Black, Hispanic, and Native American families are far less likely than White families to have wills or trusts in place.³⁸ This disparity stems from a combination of cultural beliefs, mistrust of legal systems, and the financial inaccessibility of estate planning services.³⁹

³⁴ <https://www.americanbar.org/groups/crsj/resources/human-rights/archive/contemporary-relevance-historic-black-land-loss/>.

³⁵ *Id.*

³⁶ *Why Heirs' Property Is a Problem for Vacancy and Abandonment*, COMMUNITY PROGRESS, (July 22, 2024), <https://communityprogress.org/blog/what-is-heirs-property/>.

³⁷ *Id.*

³⁸ *Disaster Preparedness: What Heir Property Owners Can Expect When Applying for Assistance*, LAND LOSS PREVENTION PROJECT (Aug. 2021),

<https://www.landloss.org/wp-content/uploads/2021/08/Publication2-Disaster-Preparedness-What-Heir-Property-Owners-Can-Expect-When-Applying-for-Assistance-Land-Loss-Prevention-Project.pdf>.

³⁹ Reetu Pepoff, *The Intersection of Racial Inequities and Estate Planning*, 47 ACTEC L.J. 87, 89 (2021).

³⁹ *Id.* at 89.

Roughly two-thirds of Americans do not have a will.⁴⁰ Surveys show that people often cite reasons such as “not having enough assets,” “being too young,” or “not wanting to think about death.”⁴¹ For many families, especially those of modest means, estate planning seems unnecessary or inaccessible. But the absence of a will has profound consequences: intestacy laws do not keep property “in the family” automatically; instead, they create the tangled form of ownership that defines heirs’ property.⁴²

The racial wealth gap is attributed to this cycle. White Americans are more than twice likely to receive intergenerational wealth transfers—through wills, trusts, or gifts—than Black or Hispanic Americans.⁴³ This unequal inheritance contributes to long-term disparities in homeownership, business investment, and educational opportunity.

Even when loss of property interests does not result in loss of large acreage of land, the consequences for communities, particularly Black and immigrant communities, can be devastating. Resulting from a history of redlining, private covenants and takings, racial segregation has become a part of the landscape in the United States.⁴⁴ A complex and nuanced combination of public policy and private bias in combination with fierce protection of property rights has resulted in neighborhoods populated by Black and immigrant communities being densely packed in some urban areas and with lower property values than in other nearby

⁴⁰ *Id.* at 88.

⁴¹ *Id.* at 89.

⁴² STEWART REAL ESTATE DICTIONARY, *supra* note 9

⁴³ Jennifer Ludden, *Here’s One Reason Why America’s Racial Wealth Gap Persists Across Generations*, NPR (Aug. 13, 2022), <https://www.npr.org/2022/08/13/1113814920/racial-wealth-gap-economic-inequality>.

⁴⁴ Carolyn B. Swope, Diana Hernández & Lara J. Cushing, *The Relationship of Historical Redlining with Present-Day Neighborhood Environmental and Health Outcomes: A Scoping Review and Conceptual Model*, 99 J. URBAN HEALTH 959 (2022).

suburban areas.⁴⁵ When this structure racial urbanization is overlayed with the issue of heirs property, a partition by sale can easily lead to the loss of family property to a developer who seeks to “renew” the neighborhood in a way that, in the long term, makes it unaffordable to its original inhabitants. This process of gentrification is made possible over and over, in many cases, because of a lack of procedural protections that would have been available under the UPHPA. Though these losses may not be the loss of a great deal of land, they will deny families the opportunity to build wealth over generations by preserving interests in property that will continue to appreciate in value over time.

D. The Broader Implications

Heirs’ property is more than a technicality of real estate law—it involves intricate pieces that have served to become an inequality to minority communities.⁴⁶ As Professor Mitchell has recognized, partition law has functioned as a quiet, lawful mechanism of racialized land loss, systematically dismantling one of the few sources of wealth available to African American families after emancipation.⁴⁷ The UPHPA represents a legislative effort to correct this historical injustice by balancing market efficiency with fairness, transparency, and family preservation.⁴⁸ Rhode Island’s continued adherence to outdated partition statutes perpetuates the same vulnerabilities this reform was designed to prevent—a gap this paper will address in the next section.

II. RHODE ISLAND’S CURRENT LAW

A. The Existing Partition Statute

⁴⁵ *Id.*

⁴⁶ Gorey, *supra* note 13.

⁴⁷ Mitchell, *supra* note 4.

⁴⁸ Ky. Legislature Committee, *supra* note 1.

Rhode Island's partition law remains rooted in Title 34, Chapter 15 of the Rhode Island General Laws, a statutory framework that has changed little since its nineteenth-century inception. Under R.I. Gen. Laws § 34-15-1, "all joint tenants, tenants in common, and coparceners may compel partition of real estate by complaint in the superior court."⁴⁹ The statute gives any co-tenant, no matter how small their ownership shares, an unconditional right to demand partition. Once filed, the court must decide whether to divide the property in kind or by order of a sale. Section § 34-15-16 authorizes the judge discretion to "order the whole premises to be divided, or any particular lot, portion, or tract thereof".⁵⁰ Because the statute provides no regulation or details a court must look at, coupled with the inefficiency of partition in kind to residential real estate, the default order from the court has routinely been partitioned in sale.

Sales are typically carried out through public auction, with proceeds divided among co-tenants in proportion to their interests.⁵¹ Rhode Island law does not require courts to obtain an independent appraisal, verify that the sale achieves fair-market value, or consider the heritage or familial significance of the property.⁵² Once the sale is complete, the family's relationship to the land ends entirely, regardless of sentimental value or equity within the property. The statute does include one modest safeguard—"that if the sale is made by private contract, it shall not be made for less than the sum fixed by the court in its decree authorizing the sale by private contract"—but this provision merely sets a minimum threshold for private-contract sales and

⁴⁹ R.I. GEN. LAWS § 34-15-1 (2024).

⁵⁰ *Id.*

⁵¹ Thomas W. Mitchell, *Reforming Property Law to Address Devastating Land Loss*, 66 ALA. L. REV. 1, 5 (2014) [hereinafter *Reforming Property Law*].

⁵² R.I. Gen. Laws § 34-15-1 (2024).

does not ensure the property is sold at fair-market value.⁵³ In effect, the statute functions as a liquidation mechanism rather than a for equitable resolution among co-owners.

B. Lack of Safeguards for Family-Owned Property

Unlike jurisdictions that have enacted the UPHPA, Rhode Island provides no procedural protections for family-owned or inherited land. The current law does not require an appraisal to establish fair-market value, does not mandate verified notice to all heirs, does not provide a buyout opportunity for family members who wish to keep the property, and does not require that sales occur on the open market rather than at courthouse auctions. *Therefore, a single heir who may not have any sentimental connection to the property or other heirs can trigger a process that culminates in the loss of an entire family home or intergenerational wealth.* As a result of the lack of procedural safeguards in this area of law, Rhode Island families with deep generational ties to their property and possess large amounts of home equity, remain exposed and vulnerable to forced sales and undervalued transactions that erase wealth accumulated over decades.

C. Legislative Efforts Toward Reform

Growing recognition of these inequities has prompted calls for statutory reform in 26 states that have enacted the UPHPA. In March 2025, the Rhode Island Senate Judiciary Committee held hearings on S. 726 – An Act Relating to Property – Partition, which would adopt the UPHPA.⁵⁴ Dr. James Habana Hafner, New England Director of the American Farmland Trust, testified that heirs'-property reform is essential to preserving intergenerational wealth and

⁵³ R.I. GEN. LAWS § 34-15-16 (2024).

⁵⁴ R.I. S.B. 726, 2025 Gen. Assemb. (Mar. 7, 2025),

<https://webserver.rilegislature.gov/BillText25/SenateText25/S0726.pdf>.

protecting Rhode Island's agricultural base.⁵⁵ Hafner explained that Rhode Island has the highest farmland costs in the United States, averaging roughly \$22,000 per acre, and that forced partition sales exacerbate farmland loss and family displacement.⁵⁶ Dr. Haftner emphasized that enacting the UPHPA would prevent below-market courthouse auctions, enable heirs'-property owners to obtain Department of Agriculture (USDA) farm numbers and federal benefits, and make Rhode Island eligible for preference under the USDA's Heirs' Property Relending Program.⁵⁷

The Senate-appointed member of the Uniform Law Commission (ULC) echoed these points in written testimony, describing heirs' property as "uniquely vulnerable under current partition law" because speculators can purchase a single fractional interest and compel a sale of the entire parcel.⁵⁸ The Commission emphasized that the UPHPA would not hinder willing buyers or sellers but would instead ensure fairness through notice, appraisal, buyout rights, and open-market sales.⁵⁹ National organizations such as the Uniform Law Commission, American Bar Association, and NAACP have also endorsed these reforms, urging states to adopt the Act to prevent involuntary land loss and prevent the loss of intergenerational wealth.

D. Policy Implications for Rhode Island

The urgency of reform is compounded by the state's worsening housing and land-cost crisis that is specific to Rhode Island. According to HousingWorks RI at Roger Williams

⁵⁵ Testimony of Dr. James Habana Hafner, Hearing on S. 726 Before the S. Jud. Comm., 2025 Gen.

Assemb., Reg. Sess. (R.I. Mar. 18, 2025),

<https://www.rilegislature.gov/senators/SenateComDocs/Judiciary/S0726%20American%20Farmland%20Trust.pdf>.

⁵⁶ *Id.*

⁵⁷ *Id.*

⁵⁸ *Testimony in Support of S. 726*, RHODE ISLAND COMMISSION ON UNIFORM STATE LAWS (Mar. 2025), <https://www.rilegislature.gov/senators/SenateComDocs/Judiciary/S0726%20RI%20Commission%20on%20Uniform%20State%20Laws.pdf>

⁵⁹ *Id.*

University, Rhode Island experienced the fastest-rising housing costs in New England in 2024, with no remaining municipalities deemed “affordable” for median-income households.⁶⁰ The affordability gap has widened across the state’s thirty-nine cities and towns, leaving even middle-class families priced out of homeownership and heightening pressure on multigenerational households to sell inherited properties.⁶¹ When combined with outdated partition procedures, these market conditions make family displacement and wealth erosion almost inevitable and highly volatile in today's market conditions.

This affordability crisis affects both urban and rural communities. In Providence, Pawtucket, and North Providence, rising assessments, steep rent increases, and gentrification pressures drive heirs to sell homes that once anchored neighborhoods.⁶² For example, a recent City Council task force found that nearly half of Providence renters and over a third of homeowners are housing-cost-burdened, while asking rents climbed more than 12 percent in a single year.⁶³ Meanwhile, coastal and agricultural families face similar threats from speculative investors targeting farmland and shoreline parcels. Rhode Island has some of the highest farmland prices in the nation—averaging roughly \$22,000 per acre—and limited remaining

⁶⁰HousingWorks RI at Roger Williams Univ., *2024 Housing Fact Book* 1 (2024), <https://www.rwu.edu/news/news-archive/housingworks-ri-rwu-releases-2024-housing-fact-book>.

⁶¹ Providence Housing Crisis Task Force, *2025 Housing Crisis Task Force Report* 2 (2025), https://council.providenceri.gov/wp-content/uploads/2025/09/HCTF-Report-2025-4_smaller.pdf; see also Eli Sherman & Ted Nesi, *R.I. Housing Costs Rise Fastest in New England; No Affordable Municipalities Left*, WPRI TARGET 12 (Oct. 10, 2024), <https://www.wpri.com/target-12/housing-crisis/ri-housing-costs-rise-fastest-in-new-england-no-affordable-municipalities-left>.

⁶² *Id.*

⁶³ *Id.*

parcels are increasingly at risk of conversion or sale.⁶⁴ Without statutory reform, heirs'-property owners—especially those lacking legal counsel—remain defenseless against forced sales and undervalued auctions.

Adopting the UPHPA would modernize Rhode Island's current partition system and align it with a national movement toward equitable land preservation among vulnerable families. It would also make the state eligible for federal incentives under H.R. 1640 – The Heirs Act of 2025, which proposes a \$30 million grant program for states adopting UPHPA-compliant laws.⁶⁵ Such reform would also coincide with the state's commitments to affordable housing, farmland protection, and racial-wealth-gap reduction. Until Rhode Island modernizes its statute, many families remain vulnerable to the quiet dispossession of their homes through the very legal mechanisms meant to preserve ownership.

III. THE UNIFORM PARTITION OF HEIRS PROPERTY ACT

A. Origins and Purpose

The Uniform Partition of Heirs Property Act (UPHPA) was drafted by the National Conference of Commissioners on Uniform State Laws (NCCUSL), also known as the Uniform Law Commission (ULC), in 2010 and amended in 2021 to clarify appraisal and sale procedures within partition laws across the United States.⁶⁶ The Act was designed to address the widespread

⁶⁴ American Farmland Trust, *Testimony on S. 726 – An Act Relating to Property – Partition 1* (May 1, 2025), <https://www.rilegislature.gov/senators/SenateComDocs/Judiciary/S0726%20American%20Farmland%20Trust.pdf>; see also *Farm RI 2.0 Report*, RHODE ISLAND LAND TRUST COUNCIL 7 (2022), <https://rilandtrusts.org/wp/wp-content/uploads/2022/09/FarmRI-2-0-Report-for-Community-Leaders.pdf>; ⁶⁵ see also *Farm RI 2.0 Report*, RHODE ISLAND LAND TRUST COUNCIL 7 (2022), <https://rilandtrusts.org/wp/wp-content/uploads/2022/09/FarmRI-2-0-Report-for-Community-Leaders.pdf>.

⁶⁶ H.R. 1640, 119th Cong. (2025), *To establish a grant program for States that adopt the Uniform Partition of Heirs Property Act, and for other purposes* (as introduced Feb. 26, 2025), <https://www.congress.gov/119/bills/hr1640/BILLS-119hr1640ih.xml>.

⁶⁶ Uniform Law Commission, *supra* note 5.

problem of involuntary land loss resulting from forced partition sales, particularly among those who inherited property without formal estate planning which results in clouded titles.⁶⁷ The ULC's drafting committee drew on extensive research, including the work of Professor Thomas W. Mitchell, whose studies documented how traditional partition laws had functioned as a legal engine of Black land loss throughout the twentieth century.⁶⁸

The UPHPA's primary purpose is to balance the property rights of all co-tenants, while introducing procedural safeguards that prevent the exploitation of heirs through undervalued or predatory sales.⁶⁹ The act reflects a shift away from viewing land solely as a divisible asset and toward recognizing it as a critical vehicle for wealth preservation, family stability, and community building. The UPHPA explicitly notes that it seeks to "protect tenants in common from predatory partition actions that can result in the loss of the entire parcel of land."⁷⁰

Since its promulgation, the UPHPA has been adopted in more than half of the jurisdictions across the United States, including Connecticut (2015), Georgia (2012), Texas (2017), and New York (2020).⁷¹ The Act has also been endorsed by the U.S. Department of Agriculture (USDA), the American Bar Association, the NAACP, and the Uniform Law Commission, which collectively describe it as a landmark reform promoting racial and economic justice.⁷²

B. Key Provisions

⁶⁷ *Id.*

⁶⁸ *Reforming Property Law*, *supra* note 51.

⁶⁹ Unif. L. Comm'n, *supra* note 58.

⁷⁰ *Id.*

⁷¹ *Id.*; see also UNIF. L. COMM'N, *Legislative Enactment Record: Uniform Partition of Heirs Property Act* (2024),

<https://www.uniformlaws.org/committees/community-home?CommunityKey=50724584-e808-4255-bc5d-8ea4e588371d> [hereinafter Legislative Record.]

⁷² Unif. L. Comm'n, *supra* note 58.

The UPHPA introduces a comprehensive set of reforms that modify the partition process from beginning to end. These provisions operate both as procedural safeguards and substantive rights that ensure fairness and market transparency.

First, the Act formally defines “heirs property” as real estate held in tenancy in common that meets specific criteria: (1) no binding written agreement among the co-tenants governing partition; (2) at least one owner acquired title from a relative; and (3) twenty percent or more of the interests are owned by relatives or by individuals who received title from a relative.⁷³ This definition limits the Act’s scope to family-owned property, ensuring that it applies narrowly to situations where generational inheritance is at stake.

Second, the Act establishes buyout rights, granting co-tenants who wish to preserve the property an opportunity to purchase the interests of those seeking to sell.⁷⁴ Once a partition action is filed, the court must notify all co-tenants of their right to buy out the selling owner’s share at its fair-market value, as determined by an independent appraisal. This provision gives families the first chance to retain ownership before a sale to outside parties can occur, something Rhode Island’s current statute does not provide.

Third, the UPHPA creates a presumption in favor to partition in kind, meaning physical division of the property is preferred unless doing so would “manifest prejudice” to the co-tenants.⁷⁵ This presumption reverses the traditional bias toward partition by sale, ensuring that courts weigh both economic and non-economic factors such as sentimental value, family history, and community impact before ordering a sale.

⁷³ Legislative Record, *supra* note 71.

⁷⁴ *Id.* § 8(a).

⁷⁵ *Id.* § 9(a)–(b).

Fourth, when partition in kind is impracticable, the Act requires market sale safeguards. Courts must order an independent appraisal to determine the fair-market value and, if a sale is necessary, conduct it on the open market rather than through a private courthouse auction.⁷⁶ The statute further directs that sales occur under commercially reasonable conditions, supervised by a real estate broker, to ensure that heirs receive the property's true value.⁷⁷ These measures are designed to prevent the below-market sales that have historically stripped families of generational wealth.

Finally, the Act imposes notice requirements, mandating that all co-tenants receive actual, verifiable notice of the proceedings, including heirs who may live out of state.⁷⁸ This ensures transparency and prevents default judgments that could otherwise dispossess uninformed heirs of property and intergenerational wealth.

C. Reception and Impact

The UPHPA has been recognized as one of the most significant property-law reforms in recent decades. It has been praised not only for its procedural due processes improvements but also as a racial and economic justice measure aimed at remedying long-standing inequities in heirs property ownership.⁷⁹ The USDA has incorporated the UPHPA into its own policy framework, giving preference in the Heirs' Property Relending Program (HPRP) to landowners residing in states that have enacted the Act.⁸⁰ The American Bar Association and Uniform Law

⁷⁶ *Id.* § 10.

⁷⁷ *Id.* § 6.

⁷⁸ *Id.* § 6(e).

⁷⁹ *Id.*

⁸⁰ Press Release, U.S. Dep't of Agric. Farm Service Agency, *Lenders Now Can Apply to New Heirs' Property Relending Program* (Sept. 2, 2021), <https://www.fsa.usda.gov/news-events/news/09-02-2021/lenders-now-apply-new-heirs-property-relending-program>.

Commission both highlight the UPHPA as a model for ensuring equitable access to courts and safeguarding intergenerational assets.⁸¹

Scholars and policymakers emphasize that the Act's benefits extend beyond individual families. By reducing involuntary land loss, the UPHPA helps stabilize neighborhoods, preserve agricultural land, and support the retention of family-owned parcels.⁸² In the context of Rhode Island, these outcomes directly align with the state's existing policy goals—particularly those related to housing affordability, farmland protection, and community preservation.

In essence, adoption of the UPHPA would align Rhode Island's partition system with both regional and national trends sweeping the nation. It would also position the state to qualify for federal grants under the Heirs Act of 2025, thereby encouraging equitable land preservation and wealth retention. By embracing this reform, Rhode Island can transform its partition law from a vehicle of dispossession into a tool of stability and justice, one capable of safeguarding family heritage and promoting economic equity for generations to come.

IV. POLICY ARGUMENTS FOR ADOPTION IN RHODE ISLAND

A. Preventing Family Wealth Stripping

Rhode Island's intergenerational family homes, particularly in minority and immigrant neighborhoods, face mounting vulnerability amid a rapidly appreciating housing market. The Rhode Island Association of Realtors reported that as of May 2025, the median price for a single-family home reached \$512,750, up from \$460,000 in 2024, while multifamily homes reached \$590,000 and condominiums \$390,000.⁸³ These record prices, coupled with rising

⁸¹ Francis et al., *supra* note 33.

⁸² U.S. Dep't of Agric. Farm Service Agency, *supra* note 80.

⁸³ R.I. ASS'N OF REALTORS, *R.I. Home Median Price Tops \$500,000 in May* (June 18, 2025), <https://www.rirealtors.org/news/2025/06/18/press-release/r.i.-home-median-price-tops-500-000-in-may/>

property taxes⁸⁴ and stagnant wages,⁸⁵ have rendered homeownership increasingly precarious for vulnerable Rhode Islanders who do not have a will in place.

Under current partition statutes, heirs who inherit property as tenants in common may lose generational wealth through forced sales initiated by even a single cotenant. These judicial auctions often result in “fire-sales” where family land sells for a fraction of its market value.⁸⁶ The UPHPA addresses this problem by requiring an independent fair-market appraisal (§ 6), a buyout option (§ 8), and an open-market sale process (§ 10) that secures equitable value.⁸⁷

These safeguards restore fairness and dignity to families historically stripped of intergenerational wealth through partition sales. In a housing market as volatile as Rhode Island’s, the UPHPA would ensure that families like the DiPinas—who have deep-rooted ties to their homes—have the ability to retain their equity and prevent the kind of cascading financial loss that stems from the outdated partition law in Rhode Island.

B. Addressing Racial Justice and Equity

Heirs’ property is not just a technical real-estate issue; it is a racial-justice issue. Heirs’ property ownership arose in the post–Civil War era, when Black Americans, excluded from legal and financial institutions, transferred property through intestacy.⁸⁸ This structure created fractionalized ownership vulnerable to exploitation under traditional partition laws, which allowed individual investors to force sales and dispossess families across the United States.⁸⁹ By

⁸⁴ *Id.*

⁸⁵ *Id.*

⁸⁶ *Reforming Property Law*, *supra* note 51.

⁸⁷ Legislative Record *supra* note 71.

⁸⁸ Thomas W. Mitchell, *Historic Partition Law Reform: A Game Changer for Heirs’ Property Owners*, at 65–66, in *Historic Partition Law Reform: A Game Changer for Heirs’ Property Owners* (Cassandra J. Gaither, Ann Carpenter, Tracy Lloyd McCarty & Sara Toering eds., 2019), <https://scholarship.law.tamu.edu/facscholar/1327>.

⁸⁹ Aspire Legal Solutions, *The Legacy of Heir Property: How Jim Crow’s Shadow Still Threatens Black Land Ownership in Florida* (Aug. 2025), <https://aspirelegal.com/2025/08/the-legacy-of-black-heir-property/>

the mid-twentieth century, these practices contributed to the loss of more than 90 percent of Black-owned farmland, amounting to roughly 16 million acres.⁹⁰

The UPHPA represents the first comprehensive legislative effort that redresses this injustice to sweep the nation. It establishes procedural fairness through notice requirements, buyout rights, and judicial consideration of cultural and ancestral attachment before ordering sale of the property through a court ordered sale. The act modernizes partition law while embedding equity and family preservation within its core.

For Rhode Island—where African-American and minority families have historically faced other property related discrimination such as redlining and exclusionary zoning⁹¹—adoption of the UPHPA would advance the state’s racial-equity goals. It directly aligns with the Rhode Island Equity Council Charter (2022), which emphasizes closing wealth gaps through property retention, and complements local efforts such as the Rhode Island Housing Fair Housing Action Plan.⁹² The UPHPA would ensure that heirs’ property owners, often families of color, would receive the procedural protection justice long denied to them under outdated partition statutes.

The UPHPA reform also supports Rhode Island’s broader housing-stability agenda. In a recent study on prevention of racial wealth and homeownership gaps, results showed that “42.4 percent of all real estate owners older than 50 do not have a will or trust.⁹³ Although a major gap still persists with Thirty-five percent of older white homeowners with children not having a will

⁹⁰ Francis et al., *supra* note 33.

⁹¹ *Mapping Inequality: Redlining in New Deal America*, UNIV. OF RICHMOND, <https://dsl.richmond.edu/panorama/redlining/>.

⁹² RHODE ISLAND HOUSING, 2022 RIHousing Fair Housing Policy Report (Apr. 2023), <https://www.rihousing.com/wp-content/uploads/2022-Fair-Housing-Report-Final-April-2023.pdf?>.

⁹³ Amalie Zinn, Michael Neal & John Walsh, *To Prevent Racial Wealth and Homeownership Gaps from Widening, Break Down Barriers to Estate Planning*, URB. WIRE (Oct. 30, 2024), <https://www.urban.org/urban-wire/prevent-racial-wealth-and-homeownership-gaps-widening-break-down-barriers-e-state>.

or trust, compared to 76 percent of Hispanic homeowners and nearly 70 percent of Black homeowners similarly situated.⁹⁴

By granting heirs the right to buy out cotenants and mandating transparent appraisal and sale procedures, the UPHPA provides a tool to stabilize families and neighborhoods.⁹⁵ It aligns with Rhode Island's Housing 2030 Plan, which highlights intergenerational homeownership as a pillar of community stability.⁹⁶

C. Modernizing Antiquated Partition Law

Rhode Island's partition framework, R.I. Gen. Laws § 34-15-1 et seq., has remained largely unchanged for decades⁹⁷ and fails to provide clear standards for valuation, notice, or equitable distribution. The UPHPA introduces structure, transparency, and predictability by codifying a uniform procedure that has already proven effective in neighboring jurisdictions.⁹⁸

Beyond fairness, adoption carries tangible legal benefits. The USDA now conditions eligibility for certain federal programs, including the Heirs' Property Relending Program, on the existence of UPHPA-style protections.⁹⁹ Without reform, Rhode Island heirs may remain ineligible for federal funding that supports property retention and development.

The Urban Institute's 2024 report To Prevent Racial Wealth and Homeownership Gaps from Widening, Break Down Barriers to Estate Planning found 60 percent of Black and Hispanic homeowners have under \$500 in liquid assets for legal services.¹⁰⁰ The authors recommend

⁹⁴ *Id.*

⁹⁵ Legislative Record, *supra* note 73.

⁹⁶ RHODE ISLAND DEP'T OF HOUSING, *Housing 2030 Strategic Plan* (2023), <https://housing.ri.gov/media/3406/download>.

⁹⁷ R.I. GEN. LAWS ch. 34-15 (2024), <https://law.justia.com/codes/rhode-island/title-34/chapter-34-15/>

⁹⁸ Uniform Law Commission, *supra* note 5.

⁹⁹ *Heirs' Property Relending Program Guidelines*, U.S. DEP'T OF AGRIC., FARM SERV. AGENCY, (2021), <https://www.farmers.gov/working-with-us/heirs-property-eligibility/relending>.

¹⁰⁰ Zinn et al., *supra* note 93.

state-level interventions to pair heirs' property reform with pro bono estate-planning initiatives, a model Rhode Island could replicate through the Bar Foundation's Access to Justice Program and local law-school partnerships. Together, these efforts would modernize Rhode Island's property law, ensure consistency with federal standards, and create a more equitable foundation for property ownership.

D. Implications for Rhode Island

If enacted, the UPHPA would represent a complete modernization of Rhode Island's current partition law. It would replace the current discretionary and auction-driven framework with a transparent process centered on fairness and preservation. The buyout provision alone would have dramatically altered outcomes like that of the DiPina family, enabling heirs to purchase one another's interests before the property was lost to the open market. Similarly, the appraisal and open-market sale requirements would ensure that, if sale became unavoidable, the property would be sold at true market value rather than through a courthouse auction for below market price.

CONCLUSION

The loss of Uncle Gary's home was not simply the loss of a house — it was the loss of history, identity, and the physical embodiment of a family's progress. Yet, his story is not unique. Across Rhode Island, similarly situated families are navigating an outdated partition system that allows equity to be stripped and heritage to be sold at auction. The Uniform Partition of Heirs Property Act offers a pathway forward, one that restores fairness, prevents exploitation and ensures that the law protects rather than punishes those who inherit without wealth or counsel.

Enacting the UPHPA would bring Rhode Island in line with a national movement toward justice in property law and affirm that the state values family, stability, and the right to keep one's home. The measure of a community is not only how it builds wealth, but how it preserves it for the next generation. It is time for Rhode Island to ensure that stories like the DiPinas' become history, not precedent.