



WHY YOUR STATE SHOULD ADOPT THE UNIFORM PARTITION OF HEIRS PROPERTY ACT

Heirs property is real estate owned by the legal heirs of a previous owner. Under most state laws, multiple heirs take ownership as tenants-in-common, an unstable form of ownership that too often results in the heirs losing their land through a forced partition sale. Millions of dollars of inherited wealth has been lost by families who were vulnerable to real-estate speculators.

The Uniform Partition of Heirs Property Act (UPHPA) provides additional due process protections for heirs. The act should be considered by each state legislature because:

- ***UPHPA helps families preserve wealth.*** Higher-income families often preserve wealth for the next generations through sophisticated estate planning. For many lower- and middle-income families who cannot afford an estate plan, real estate is their most valuable asset. UPHPA helps preserve wealth for the heirs who want to retain their property while allowing other heirs to sell their shares of property at a fair price.
- ***UPHPA is narrowly focused.*** UPHPA applies only to a small percentage of partition actions: The subject property must be 1) titled as a tenancy-in-common, 2) with at least one co-tenant who acquired title from a relative, 3) with at least 20% of the ownership interests traceable to a family member, and 4) without a written agreement governing partition. Unless all four conditions are present, your state's current partition law will apply.
- ***UPHPA gives a state's residents priority for certain federal loans.*** The federal government provides loans for development of dormant farmland and for legal expenses incurred by heirs to clear title to property owned by a deceased relative. In the 2018 Farm Bill, Congress included a provision granting preferred status to loan applicants from states that adopt UPHPA.
- ***UPHPA preserves the independent right to contract.*** Nothing in UPHPA prevents a willing buyer and a willing seller from transferring an ownership interest in heirs property. Furthermore, if all co-tenants of a parcel of heirs property agree in writing to a plan of partition, UPHPA does not apply.

For more information about the Uniform Partition of Heirs Property Act, please contact ULC Legislative Counsel Jane Sternecky at (312) 450-6622 or jsternecky@uniformlaws.org.