
UNDERSTANDING HEIRS' PROPERTY AT THE COMMUNITY LEVEL: OVERVIEW



OVERVIEW

OBJECTIVES

- What is heirs' property?
- Impacts of heirs' property
- Importance of legal and cultural considerations
- Fractional ownership: Challenges of time, distance, and knowledge
- Locating and preventing land loss

ESTIMATED TIME TO COMPLETE

4 hours

BEFORE THE MEETING

- Add dates and location to slide 1.
- Add today's presenter names to the designated slide.
- Set out registration materials, including sign in and nametags.
- Access and test for video and sound of video on slide 25.
- Prep for Activity slide 43.
- Check the map on slide 54 against the source. If the map has changed, update the map and the date to reflect the current information. Map Source:
<https://www.uniformlaws.org/committees/community-home?CommunityKey=50724584-e808-4255-bc5d-8ea4e588371d>
- Set out all handouts except the evaluation for each person.

MATERIALS NEEDED

- Nametags
- Pens or pencils

HANDOUTS AND TOOLS

- Agenda – A sample agenda for the entire curriculum is included in the **Overview** section. If you are doing this session as a separate session, you can adapt that sample to fit your situation.
- Definitions and Key Terms

- Guidance for Heirs' Property Operators Participating in Farm Service Agency (FSA) Programs. Fact Sheet, July 2020. Available at: https://www.fsa.usda.gov/Assets/USDA-FSA-Public/usdafiles/FactSheets/guidance_heirs_property_operators_participating_in_fsa_programs-factsheet.pdf
- Update to FEMA's Individual Assistance Program and Policy Guide, Version 1.1 available at: https://www.fema.gov/sites/default/files/documents/fema_updated-iappg-version-1.1.pdf
- FEMA Makes Changes to Individual Assistance Policies to Advance Equity for Disaster Survivors available at: <https://www.fema.gov/press-release/20210902/fema-makes-changes-individual-assistance-policies-advance-equity-disaster#:~:text=FEMA%20is%20amending%20its%20current,the%20survivor's%20home%20before%20the>
- State Factsheets on Heirs' Property – Go to the link to identify and print the fact sheet for your state if it is available (scroll down the page to see the states). <https://farmlandaccess.org/heirs-property/#statefactsheets>
- Evaluation – The evaluation covers all three sections. If you are not doing all three sections together, you can adapt as described in the evaluation instructions.

SLIDE 1

INSTRUCTIONS

Before the session begins, insert the date and location for your event. Have this slide up as participants enter the room.

Please acknowledge that this material was developed in partnership with National Policy Center at Alcorn State University, the Southern Extension Risk Management Education Center, and the Southern Rural Development Center through funding in part from USDA.

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Time: 1 Minute

Materials: None

Handouts: None

NOTE: If you do not do all three segments at the same event, insert slides 1-4 at the beginning of your other sessions as they provide the overarching foundation for the training.

SLIDE 2

INSTRUCTIONS

Explain the purpose of the overall curriculum.



Time: 1 Minute

Materials: None

Handouts: None

SLIDE 3

INSTRUCTIONS

This slide highlights the partnering organizations that have worked together to develop materials and host trainings.

This material was developed and training for trainers was provided as a partnership with the National Policy Research Center at Alcorn State University, the Southern Extension Risk Management Education Center, and the Southern Rural Development Center hosted at Mississippi State University through funding in part from USDA.



Time: 1 Minute

Materials: None

Handouts: None

SLIDE 4

INSTRUCTIONS

Please acknowledge the primary and contributing authors to this material as well as the funding stream through the Southern Rural Development Center and the National Policy Research Center at Alcorn State University.

	Acknowledgements
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Time: 1 Minute

Materials: None

Handouts: None

SLIDE 5

INSTRUCTIONS

Add presenter information and introduce yourselves.

Presenters	
Name	
University	
Name	
University	
Name	
University	

Time: 1 Minute

Materials: None

Handouts: None

SLIDE 6

INSTRUCTIONS

This slide shows the three parts of the curriculum and gives a quick view of the components covered in each section.

Topics to Explore



OVERVIEW	What is Heirs' Property?
	Impacts of Heirs' Property
	Legal and Cultural Considerations
	Fractional Ownership
	Locating Heirs' Property
	Land Loss
PREVENTION	Preventing Land Loss
	Basics of estate and succession planning
RESOLUTION	Steps to prevent heirs' property when establishing a will
	Review some of the challenges of owning heirs' property
	Importance of working with other family members
	Steps to take to understand who legally owns the property
	Legal structures that can hold land owned by heirs' property owners

Time: 1 Minute

Materials: None

Handouts: None

SLIDE 7

INSTRUCTIONS

Give time for participants to introduce themselves and their interest in learning about heirs' property.

Have participants give their name and affiliation, etc.

Possible prompts: What brings you to this workshop? What are you curious about when it comes to heirs' property?

If in tables, have people share for a maximum of a minute. If in rows, have them form dyads or triads and share.



Time: 1 Minute

Materials: None

Handouts: None

SLIDE 8

INSTRUCTIONS

This slide begins the Overview section.



Time: 1 Minute

Materials: None

Handouts: None

SLIDE 9

INSTRUCTIONS

Read the disclaimer and answer any questions that may arise.

Important notes before we begin:

These materials are intended to present general information as to preventing heirs' property.

They primarily draw upon information in the southern United States.

The information may not be applicable to every state or territory.

These materials do not provide legal advice. Specific advice should be obtained from an attorney or another professional well versed in the facts and circumstances related to the individual seeking advice and the jurisdiction where the property is located.

Time: 1 Minute

Materials: None

Handouts: None

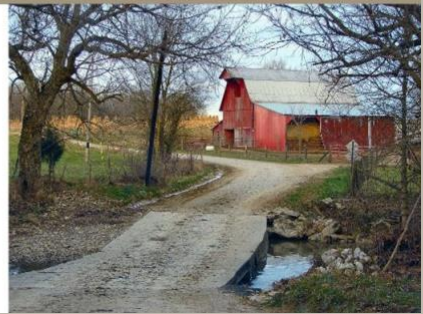
SLIDE 10

INSTRUCTIONS

Go over these guidelines with participants to ensure that participants understand the reasons for not including stories or questions of a personal nature.

Protecting Your Information

- No personal stories
- General questions are welcome.
- Personal questions should be asked outside of the group setting.



Time: 1 Minute

Materials: None

Handouts: None

SLIDE 11

INSTRUCTIONS

This is the section opener for discussing what heirs' property is.



Time: 1 Minute

Materials: None

Handouts: None

SLIDE 12

INSTRUCTIONS

Using the talking points on the slide, give a brief overview of what is meant by heirs' property.

Everyone gets their interest in the property. The interest amount is determined by heirship.

A person is not an heir until their previous generation has passed.

No matter what the interest size, each person is a co-owner, and all co-owners have the same amount of right (legally) to do or not do anything to the land. This will be explained more in the family tree section later in this presentation.

What is Heirs' Property?

- Refers to property passed down informally from generation to generation. Also known as "Fractured," "Tangled," "Clouded"
- The original landowner dies without a will, or the will was not probated or administered
- State laws determine who inherits your land.
- Can potentially include multiple generations and hundreds of relatives
- No single heir has clear title to the entire parcel. Each owner has an interest in the entire asset rather than each heir having their own piece of the asset



Time: 2 Minutes

Materials: None

Handouts: None

SLIDE 13

INSTRUCTIONS

Go over the rights that each heir has a co-owner as described on this slide.

Each Heir...

- Has equal rights to full use and possession
- Is legally responsible for taxes and other property-related expenses
- May transfer by gift or sale their interest to another heir or non-heir
- May seek a partition of property
- Must agree to any major decisions about the property



Time: 1 Minute

Materials: None

Handouts: None

SLIDE 14

INSTRUCTIONS

As these examples demonstrate, heirs' property is referred to by a lot of different names. These variations sometimes even appear within the same county.

- The heirs' own the property **"without a clear title"**
- Sometimes referred to as **"Family Land"**, **"Fractured"**, **"Tangled"**, or **"Clouded"**

Common Terms for Heirs' Property Ownership:

"Without a clear title" **"Clouded"** **"Fractured"**
"Family Land" **"Tangled"**

This restricts being able to manage the property and use the asset to accumulate wealth

Discussion: What challenges do you think this might cause?

Time: 5 Minutes

Materials: None

Handouts: None

SLIDE 15

INSTRUCTIONS

As these examples demonstrate, heirs' property is referred to by a lot of different names. These variations sometimes even appear within the same county.

Discussion: What challenges do you think this might cause?

Common Terms

The heirs' own the property without a "**clear title**"

Sometimes referred to as "**Family Land**", "**Fractured**", "**Tangled**", or "**Clouded**"

This restricts being able to manage the property and use the asset to accumulate wealth

Time: 5 Minutes

Materials: None

Handouts: None

SLIDE 16

INSTRUCTIONS

This important note helps set the stage for why this education is needed. No one wants the state to make the final decision on how their estate is divided after their death.

Important

If you do not decide
how you want your estate divided,
the state where your estate (property) is
located will decide for you.



Time: 1 Minute

Materials: None

Handouts: None

SLIDE 17

INSTRUCTIONS

This chart shows the complexity of what could happen in just one state. State laws vary, making for a very complicated system.

Note: If participants begin asking a lot of “what if” questions about specific situations, use caution in responding. Rather remind participants that these are general statements intended to demonstrate the complexity of the situation.

Also, remember, and remind the participants, that you are not a lawyer, and detailed questions are better answered by a lawyer.

Source: <https://www.nolo.com/legal-encyclopedia/intestate-succession-alabama.html>

For example, if you die without a will in Alabama...

If you die with:	Here's what happens:
• Children but no spouse	• Children inherit everything
• Spouse but no children or parents	• Spouse inherits everything
• A spouse and children who belong to you and that spouse	• Spouse inherits the first \$50,000 of your intestate property, plus 1/2 of the balance of your intestate property
• A spouse and children who are not that spouse's children	• Children inherit remaining intestate property
• A spouse and parents	• Spouse inherits 1/2 of the intestate property
• Parents but no children or spouse	• Children inherit 1/2 of the intestate property
• Siblings but no children, spouse, or parents	• Spouse inherits the first \$100,000 of your intestate property, plus 1/2 of the balance of your intestate property
	• Parents inherit remaining intestate property
	• Parents inherit everything
	• Siblings inherit everything

Time: 5 Minutes

Materials: None

Handouts: None

SLIDE 18

INSTRUCTIONS

This is the section opener for discussing what heirs' property is.



Time: 1 Minute

Materials: None

Handouts: None

SLIDE 19

INSTRUCTIONS

Heirs' property impacts multiple levels from the personal/family to community levels.

01

Impacts

On personal assets

02

On family decision making

03

On community development

Time: 1 Minute

Materials: None

Handouts: None

SLIDE 20

INSTRUCTIONS

Heirs' property may restrict what the land can be used for, including generating income or improving it, e.g., getting a loan to build a permanent structure such as a house.

Heirs' property restricts how land can be managed. Heirs need to agree on any decision concerning the land, including division of profits, for example:

- Timber harvesting and reforestation
- Farm planting and harvesting
- Mineral rights
- Mortgages and other loans
- USDA programs
- Conservation easements



Time: 5 Minutes

Materials: None

Handouts: None

SLIDE 21

INSTRUCTIONS

While owners of heirs' property have an asset, it is an asset with very limited capability. Stress these shortcomings of this asset.

- Promoting intergenerational poverty – the lack of personal ownership of the land inhibits wealth creation.
- Inhibiting full use of the land– some potential uses of the land require all heirs to agree, which can be challenging.
- Hindering insuring property – May require proof of ownership, which is challenging for heirs.
- Blocking access to some federal programs – some federal programs require proof of ownership to participate.

Impact on Personal and Family Assets:

•Promoting intergenerational poverty

- Cannot open a line of credit or apply for a mortgage
- Cannot sell the property



•Inhibiting full use of the land

- Asset cannot be used as collateral for example, for a loan, to start a business
- Cannot generate income by leasing the land or selling its natural resources

•Hindering insuring property

•Blocking access to some federal programs

- Challenges in getting a farm number to be able to participate in USDA and state programs

Time: 4 Minutes

Materials: None

Handouts: None

SLIDE 22

INSTRUCTIONS

While owners of heirs' property have an asset, it is an asset with very limited capability. Stress these shortcomings of this asset. Especially when trying to participate in federal programs like USDA or FEMA.

Impact on Participation in Federal Programs:

- **Historically lack of title has made it difficult to participate in federal agricultural programs offered by (USDA)**
- **Recent positive policy changes address some of those challenges (ex: heirs' property owners can now get farm numbers and participate in USDA programs under certain conditions).**

Time: 4 Minutes

Materials: None

Handouts: None

SLIDE 23

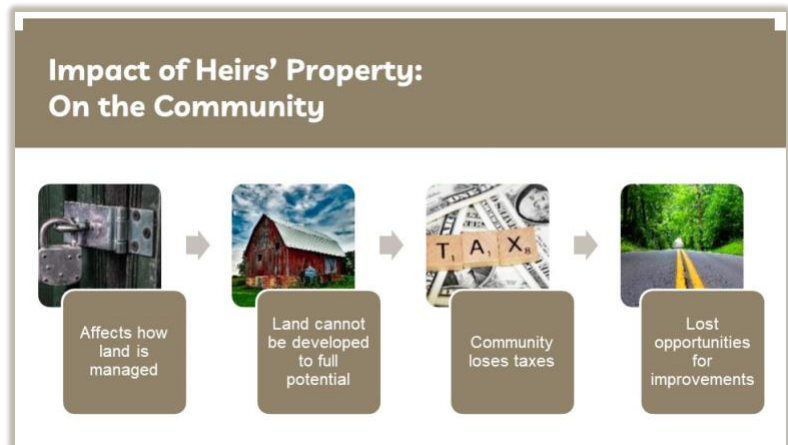
INSTRUCTIONS

This slide shows how limits in use of heirs' property land ultimately impact the community.

If heirs' property affects how land is managed, and it cannot be developed to its full potential, then the community loses on potential taxes based on increased development and improvements.

This impacts:

- Roads and Bridges
- Fire and Safety
- Sanitation
- Education



Time: 5 Minutes

Materials: None

Handouts: None

SLIDE 24

INSTRUCTIONS

Review these summary points to prepare for the next section..

SUMMARIZING

Up to this point we know that...

01

Heirs' property land is held without marketable title

02

Heirs' property is passed from one generation to the next due to lack of probated will or judicial proceeding

03

Heirs' property has limited investment potential and is at risk for loss through legal and other means

Time: 1 Minute

Materials: None

Handouts: None

SLIDE 25

INSTRUCTIONS

This is the section opener for discussing legal and cultural barriers that heirs' property owners may face. Both legal and cultural considerations are Important in determining how land is passed down and used from one generation to the next.



Time: 1 Minute

Materials: None

Handouts: None

SLIDE 26

INSTRUCTIONS

Some might quickly assume that all that is needed is a will. However, several points come into the picture as families navigate this space.

Question:



To prevent the problems associated with heirs' property, all you need is a Will?

YES and NO

Time: 1 Minute

Materials: None

Handouts: None

SLIDE 27

INSTRUCTIONS

This slide discusses the “yes/no” in more detail. Note that in addition to the slides in this overview section, this curriculum includes a more detailed section on prevention of heirs' property through estate planning.

Competing Strategies



YES: a properly executed will, written according to state law, that divides land into specific acreages or parcels, can secure title to land from one generation to the next. (No “all my children” without specific acreage.)

NO: a properly executed will is not the only way that property can be transferred from one generation to the next.

The first action is a **legal consideration** and the second is a **cultural consideration**.

Time: 2 Minutes

Materials: None

Handouts: None

SLIDE 28

INSTRUCTIONS

Several barriers exist to transferring land. Some of the most often noted ones are listed here.

Previous studies have found that a large percentage of Americans in general do not have a will (often as high as 50%). The percentage of African Americans without a will is significantly higher, approaching 70% or more. The reasons for not writing a will or other forms of estate planning include misinformation about how, when or who to include in a will; the avoidance of family disputes on who will receive what assets; to even beliefs that writing a will indicates that a person is ready to die or will bring on death.

The expense for an attorney is not insignificant, though some may provide a sliding scale.

Many landowners have past experiences or heard stories dealing with lawyers, judges, and other county officials who participated in land takeaway schemes.

Legal Considerations

Barriers to transferring land as a legal strategy include:

- Lack of knowledge about wills
- Expense of hiring an attorney
- Mistrust of a legal system that has often helped take away land



Time: 5 Minutes

Materials: None

Handouts: None

SLIDE 29

INSTRUCTIONS

Culture may also play a part in creating barriers. For instance,

- Land is not a commodity to be sold. Some consider land to be a part of the family in a different way than other financial assets. Thus, it isn't considered a commodity to be sold.

Cultural Considerations



Barriers to transferring land as a cultural strategy include:

- Land is not a commodity to be sold.
- Taboo Death Talk
- Land provides a homestead where everyone can come back
- Land gives a religious connection that should be respected. The history of the land should be respected.

- Taboo Death Talk. In some cultures, talking about death is considered "taboo," which can hinder discussions about prevention or resolution.

Time: 5 Minutes

Materials: None

- Land provides a homestead where everyone can come back. Having a family "homestead" where all generations can gather is valued in some cultures.

Handouts: None

- Land gives a religious connection that should be respected. The history of the land should be respected.

SLIDE 30

INSTRUCTIONS

Other cultural barriers include:

- Heirs that live further away in distance from the land may place less priority on keeping the land intact.
- All heirs may not agree on how the land should be used and accessed.
- Younger generations may value land differently than older generations.

Cultural Considerations, continued

Barriers to transferring land as a cultural strategy include:

- Heirs further away in distance may place less priority on keeping the land intact.
- All heirs may not agree on proper land use and access.
- Generations may value land differently.



Time: 5 Minutes

Materials: None

Handouts: None

SLIDE 31

INSTRUCTIONS

On the other hand, some families prefer that all family members have equal access to family land. Unfortunately, besides the economic consequences of heirs' property (provided previously), having unsecured title means that the land is vulnerable to partition sales (upcoming slides).

Read this quote.

Pair/share: What do you hear in this quote that is similar to your family's thoughts about land ownership? What is different?

Consider this Quote: Valuing Land in Common

"For [the family], the commitment to heir land remained in force, enforced not by law – where the practice and concept was vulnerable – but by shared understanding... The land should stay undivided, open to and for all the heirs.

Land is not a commodity that is sold, but a right that is transferred to kin as needed.

The land was for open access and undivided family use, and not to be restricted by deeds."

A Mind to Stay: White Plantation, Black Homeland, Sydney Nathans (2017)

Time: 5 Minutes

Materials: None

Handouts: None

SLIDE 32

INSTRUCTIONS

Read this quote.

Pair/share – Do you see this situation in your family? What interest do you see in younger generations in maintaining the land?

What challenges could be created if any of the heirs are no longer interested in keeping the land?

Consider this quote: Changing Values

"When young people grow up...they don't see the necessity of owning land....My parents, my grandparents, suffered all their lives to buy eleven hundred acres of land...[Land] had a sentimental value to it, 'cause we had to get a livelihood, we had to get our bread from the land....Now children think that milk comes from the store....They don't see the relevance of the land....[They] have no idea what it took for black folks to own land."

A Mind to Stay: White Plantation, Black Homeland, Sydney Nathans (2017)

Time: 5 Minutes

Materials: None

Handouts: None

SLIDE 33

INSTRUCTIONS

Search Title: "How Property Law Is Used to appropriate Black Land"

Before playing the video let people know this video could raise difficult emotions, which we will have time to talk about after the video.

After viewing the video, ask participants what they have learned from this family's experience?

.Link: https://www.youtube.com/watch?v=ls3P_Fic07I

How Property Law is Used to appropriate Black Land



Time: 22 Minutes

Materials: None

Handouts: None

SLIDE 34

INSTRUCTIONS

Guide a discussion about the film and give the audience a chance to speak on thoughts and feelings.

01

Video Debrief

What comes up for you?

Does it bring to the light the significance of the problem?

02

Do you see where you can act to avoid this situation?

03

Questions

Time: 5 Minutes

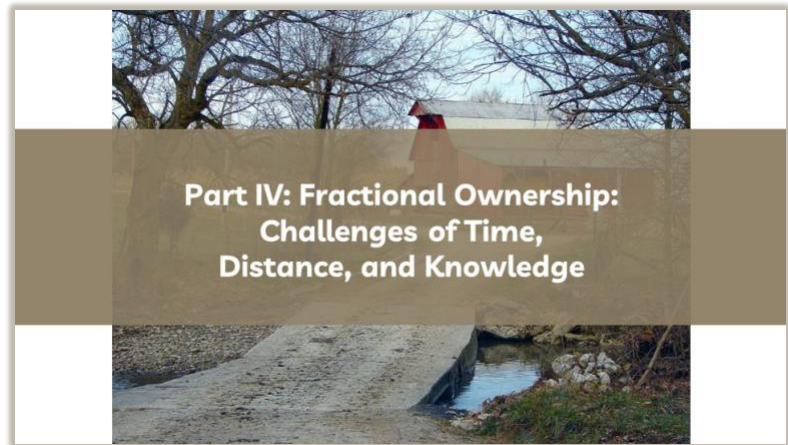
Materials: None

Handouts: None

SLIDE 35

INSTRUCTIONS

This is the section opener for discussing how fractional ownership begins and challenges associated with the increase of owners.



Time: 1 Minute

Materials: None

Handouts: None

SLIDE 36

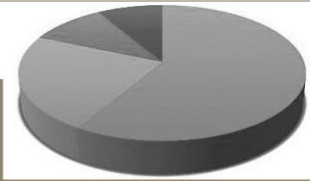
INSTRUCTIONS

Heirs' property means that heirs have an undivided fractional interest in the land. Fractional here means a percentage interest as opposed to actual acreage. Note these two key factors that influence fractional interest. These are discussed further in the next slide.

Fractional Ownership

The **SIZE** of each heirs' fractional ownership interest depends on several factors such as:

- How many generations removed is an heir from the original deceased landowner?
- How many heirs can rightfully take their inheritance at a specific point in time?



Time: 1 Minute

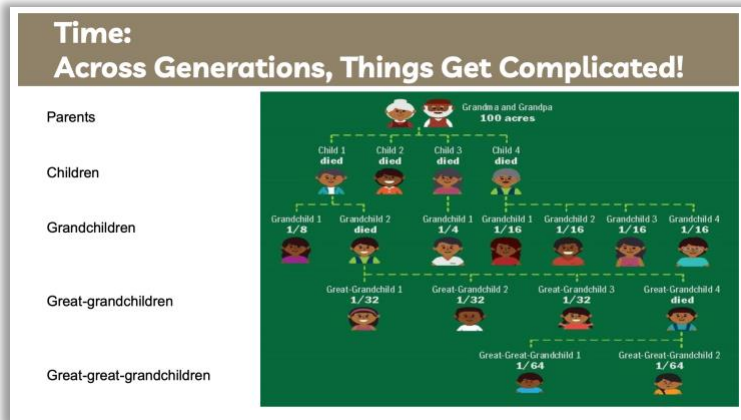
Materials: None

Handouts: None

SLIDE 37

INSTRUCTIONS

In this example, the diagram shows four generations of heirs, with more people in each generation having a smaller fractional interest. Each generation gets a percentage of their parents' share. So, in this example, the four children each had 25%. But as they pass away, their percentage is divided among their respective children.



In all, there are 17 heirs, 11 heirs surviving, across four generations, with fractional interests ranging from 1/4 to 1/64.

NOTE: Remember, although not depicted here, a spouse of a deceased heir may inherit that person's share.

Time: 5 Minutes

Materials: None

Handouts: None

Source: <https://www.atlantafed.org/-/media/documents/news/conferences/2017/0615-heirs-property-in-the-south/infographic.html>

SLIDE 38

INSTRUCTIONS

This slide begins another example of land fractionation over time.



Time: 1 Minute

Materials: None

Handouts: None

SLIDE 39

INSTRUCTIONS

Facilitators can share all three options or the option that is most relevant to the audience.

Option 1: Example of Land Grant States

Instructions: An example of annexed land and land grant lands.

Annexed Land & Loss of Land Grants by Mexican families

U.S. annexed Texas, 1845
Treaty of Guadalupe
Hidalgo, 1848

Variety of land grants were vastly diminished over the years.

- University of Mexico, collection of documents showed how an agreement for over 40,000 acres was reduced to less than 1,400 acres.



Time: 3 Minutes

Materials: None

Handouts: None

SLIDE 40

INSTRUCTIONS

Option 2: Example of Midwest States

Instructions: An example of the Homestead Act of 1862.

Homestead Act of 1862

Opened up millions of acres in the American West

Requirements:

- US citizen
- 21 years old
- Not taken up arms against the US
- 160 acres
- 5 years of improvements (production)
- House



Time: 3 Minutes

Materials: None

Handouts: None

SLIDE 41

INSTRUCTIONS

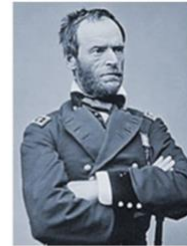
Option 3: An example of Southern States

An example is land taken by the advancing Union armies and distributed to the formerly enslaved.

40 Acres and a Mule

Headquarters, Military Division of the Mississippi,
IN THE FIELD, SAVANNAH, GA., JAN. 16, 1865.
SPECIAL FIELD ORDERS,
No. 15.

I. The islands from Charleston South, the abandoned rice fields along the rivers for thirty miles back from the sea, and the country bordering the St. Johns River, Florida, are reserved and set apart for the settlement of the negroes now made free by the acts of war and the Proclamation of the President of the United States.



Sherman's Field Order No. 15

"Pertain only to South Carolina, Georgia and Florida coastline and was based on the redistribution of 40,000 acres into 40 acres segments"

Time: 5 Minutes

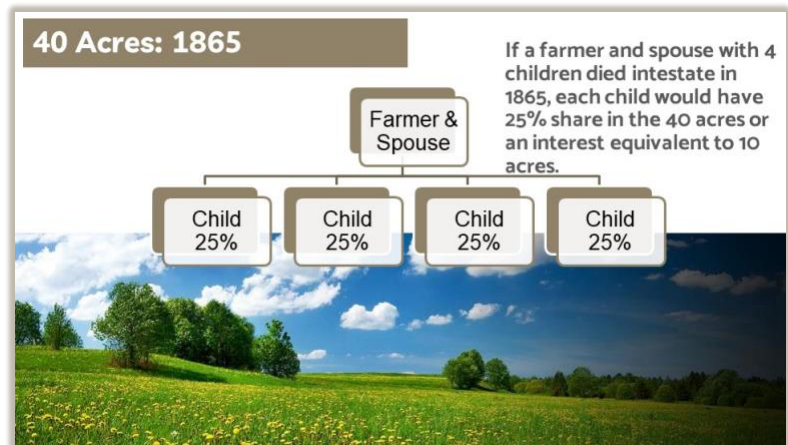
Materials: None

Handouts: None

SLIDE 42

INSTRUCTIONS

Walk participants through this example that might have happened in 1865.



Time: 2 Minutes

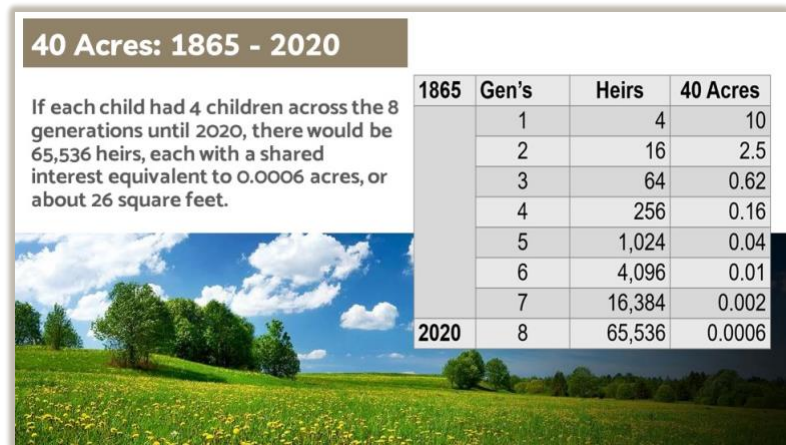
Materials: None

Handouts: None

SLIDE 43

INSTRUCTIONS

"Fast forward" the story to 2020.
How would the story be different?



Time: 5 Minutes

Materials: None

Handouts: None

SLIDE 44

INSTRUCTIONS

As time goes on, heirs may move to different places and no longer have strong connections to the land. Yet they are still heirs. The lack of connections may leave the land vulnerable as remote heirs may be more willing to sell their share in the land to someone outside the family.

Distance Causes Challenges

Heirs may not all live on or near the land.

Distance can lead to disinterest.

★(Stars are just an example showing how families can become geographically scattered.)



Time: 2 Minutes

Materials: None

Handouts: None

SLIDE 45

INSTRUCTIONS

In sum, family land is hard to manage. Here are reasons why.

With numerous co-owners, the following can occur, which can impede proper management of the land:

- Heirs do not live on or near the land
- Heirs do not live near each other
- Heirs do not know one another
- Heirs do not know how to locate one another
- Heirs do not have a connection to the land

Management Challenges:

Over time, heirs may not:

- Live on or near the land
- Live near each other
- Know one another
- Know **how** to locate one another
- Have a connection to the land



Time: 2 Minutes

Materials: None

Handouts: None

SLIDE 46

INSTRUCTIONS

This is the section opener for discussing how landowners can find out if their family land is considered heirs' property in the county system.



Time: 1 Minute

Materials: None

Handouts: None

SLIDE 47

INSTRUCTIONS

Heirs' property is a phenomenon that has personal and regional implications. The next few slides will walk participants through some data on heirs' property on different levels, helping to create understanding on the extent of the problem.



Time: 1 Minute

Materials: None

Handouts: None

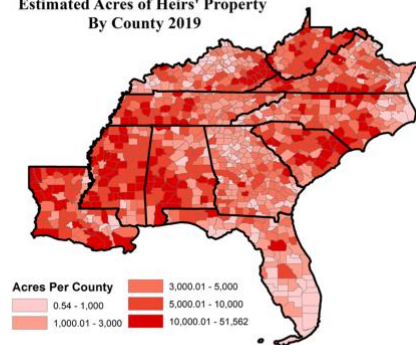
SLIDE 48

INSTRUCTIONS

While there are concentrations of heir's property across the United States, African American heirs' property is found mainly within the Southeast region.

Heirs' Property in the Southeast

Estimated Acres of Heirs' Property
By County 2019



Source: Thomson, R. and Bailey, C., 2023. Identifying Heirs' Property: Extent and Value Across the South and Appalachia. *Journal of Rural Social Sciences*, 38(2), p.2.

Time: 1 Minute

Materials: None

Handouts: None

SLIDE 49

INSTRUCTIONS

Many families of one county may have heirs' property. Also, in many cases, those with heirs' property may not even live in the same community, county, or even state, where the property is located.



Time: 1 Minutes

Materials: None

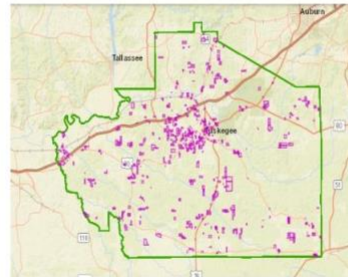
Handouts: None

SLIDE 50

INSTRUCTIONS

Local GIS websites can allow you to see heirs' property at the county level in some states. This example is from Macon County, Alabama, with heirs' property in red.

Heirs' Property in Macon County, AL



Time: 1 Minute

Materials: None

Handouts: None

SLIDE 51

INSTRUCTIONS

Now, let's focus on your family.



Time: 1 Minute

Materials: None

Handouts: None

SLIDE 52

INSTRUCTIONS

Online records are sometimes available through the county revenue commissioner's office (or similar office in other states). The next few slides will demonstrate an example of what might be available online.

You may find it helpful to find the local office for this training and be ready to discuss differences.

Instructions for doing this are on the next slide.

Looking Online

Locate the county revenue commissioner's office online

Connect with GIS site (online mapping tool)

Type in your family's name



Time: 5 Minutes

Materials: None

Handouts: None

SLIDE 53

INSTRUCTIONS

This slide shows how Macon County, Alabama's site looks.

Notice the link to the GIS Map as the starting point.

Activity:

Searching your county records online

- Open your browser on your computer, phone, or other web-based device.
- Search for your county, state, GIS
- Is it accessible? If so, can you type in a search?
- If you can type in a search, type in your last name. Did anything show up?
- Discussion: Take a few minutes for different participants to share what they found or anything they noticed.



Time: 10 Minutes

Materials: None

Handouts: None

SLIDE 54

INSTRUCTIONS

A family name can be entered to begin the search.



Time: 1 Minute

Materials: None

Handouts: None

SLIDE 55

INSTRUCTIONS

These words will sometimes appear in the search for a family name. Seeing any of these may indicate you have heirs' property. The next slide shows how those might appear.

If your family name is followed by

"heirs of..."

"estate of..."

"et al. ..."

"% interest..."

"care of..."



Then you may have heirs' property

Time: 2 Minutes

Materials: None

Handouts: None

SLIDE 56

INSTRUCTIONS

In addition to the challenges of having different terms for heirs' property, inconsistencies in how they are written create even more challenges. Additionally, search terms also may be part of larger terms, "heir" is inside "their" and "estate" may be a proper name for a residential community, or the name of a road.

Label Challenges – Searching for terms

Term	Examples of how it might be written
Heir	Heir
Deceased	Deceased, Dec., Dec'd.
Estate	Estate, Est.
Et al	Et al, etal

Other search challenges:

- The word "heirs" is also part of the word "their"
- "Estate" may be part of a proper name (i.e. "Garden Estate")

Also, while all the land tracts listed under et al, or estate, etc. may not be heirs' property, a significant percentage may be.

Therefore, it may be necessary to ask your county official, the Tax Assessor, the Revenue Commissioner, etc., what term(s) they use to indicate heirs' property.

Time: 5 Minutes

Materials: None

Handouts: None

SLIDE 57

INSTRUCTIONS

Point out how the different designations show up on these examples.

Examples of How This Might Look

Owner Name and Mailing Address T (HEIRS CP) SHORTER, AL 36075 Acct # 0000178210 Tax Dist 05 Exemptions REGULAR	Owner Name and Mailing Address T 50 % INT A WILLOWS WAY MONTGOMERY, AL 36124 Acct # 0000180730 Tax Dist 04 Exemptions NOT EXEMPT	Owner Name and Mailing Address S ETAL MONTGOMERY, AL 36106 Acct # 0000176340 Tax Dist 01 Exemptions NOT EXEMPT
Owner Name and Mailing Address CIC BURKBURNETT, TX 76354 Acct # 0000123140 Tax Dist 01 Exemptions NOT EXEMPT	Owner Name and Mailing Address . ESTATE NOTASULGA RD TUSKEGEE, AL 36083 Acct # 0000066440 Tax Dist 01 Exemptions NOT EXEMPT	Owner Name and Mailing Address V (DECEASED) UTICA, NY 13501 Acct # 0000170490 Tax Dist 01 Exemptions NOT EXEMPT

Time: 1 Minute

Materials: None

Handouts: None

SLIDE 58

INSTRUCTIONS

Different counties have differing levels of access to on-line land parcel information. Some information is easily accessible, while some may require a login and password, or even a fee.

Access Challenges

- Complete open access
- Open access with limited numbers
- Manual open access
- Blocked access
- Payment



Time: 5 Minutes

Materials: None

Handouts: None

SLIDE 59

INSTRUCTIONS

Because heirs' property is land without secured title, it is often the target of takeaway strategies, many legal. This next section explores some of the common ways in which the land is lost.

Part VI: Land Loss

Because heirs' property is land without secured title, it is often the target of takeaway strategies, many legal.



Time: 1 Minute

Materials: None

Handouts: None

SLIDE 60

INSTRUCTIONS

Because heirs' property is land without secured title, it is often the target of takeaway strategies, many legal. This next section explores some of the common ways in which the land is lost.

Part VI: Land Loss

Because heirs' property is land without secured title, it is often the target of predatory strategies, many legal.



Time: 1 Minute

Materials: None

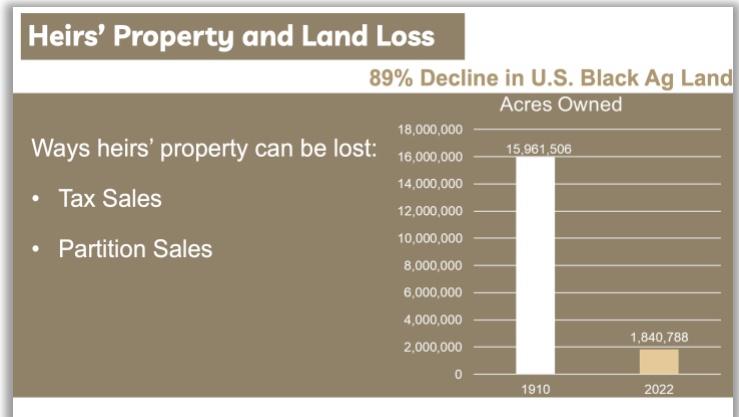
Handouts: None

SLIDE 61

INSTRUCTIONS

This slide outlines some of the ways heirs' property can be lost.

In 1910, there were 15,961,506 acres on Black-owned farms in full-ownership (with no additional rented acres or part-ownership, or land used by tenants or sharecroppers). By the last agricultural census in 2022, this number has declined by 89% to 1,840,788 acres on Black-owned farms in full-ownership.



Major cause of this land loss was through land as heirs' property.

Ways heirs' property can be lost:

- Partition Sales
- Tax Sales

...and some heirs have no interest in the land at all.

Time: 10 Minutes

Materials: None

Handouts: None

Sources:

US Department of Commerce, Bureau of Census. 1914. 1910 Census: Volume 5. Agriculture, 1909 and 1910, General Report and Analysis. Chapter IV, Table 16, p. 182. Washington, DC.

<https://agcensus.library.cornell.edu/wp-content/uploads/41033898v5ch03.pdf>

US Department of Agriculture, National Agricultural Statistics Service. 2022. Census of Agriculture, United States Data, Table 61, p. 80.

https://www.nass.usda.gov/Publications/AgCensus/2022/Full_Report/Volume_1,_Chapter_1_US/usv1.pdf

SLIDE 62

INSTRUCTIONS

If you don't pay your property taxes, the county auctions your tax bill and interest in a "bid down" process starting at 12%. If you don't reclaim your tax lien within three years, which includes repaying the tax bill plus interest, then the land will go to the bidder.

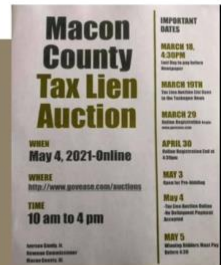
There are always investors who look for these tax sales as a way of either getting land for just the tax value, or as a way to invest their capital at a high interest rate.

This means that all heirs/landowners, particularly absentee landowners, need to keep track of who is paying the property taxes on their heirs' property.

Tax Sales

Alabama Example: From Non-payment of Taxes:

- Taxes due in October
- Delinquent after December 31st
- Tax sales on May 3, 2021
 - Auction for payment of back taxes and fees, with bidding for interest starting at 12% and going down, to receive a tax lien certificate
 - After 3 years, owns the property (land, house)
 - Up to 3 years, owner has chance to buy back the tax deed by paying past taxes plus interest, up to 12%



Time: 10 Minutes

Materials: None

Handouts: None

SLIDE 63

INSTRUCTIONS

A partition action may be brought against the co-tenants of heirs' property, either family members or non-family members.

While a co-tenant cannot "sell" the land, they can sell their interest in the land. In this case, an outside party can gain access to the land as if they were a part of the original family unit, with all the rights and obligations.

Partition Sales



- One or more co-owners of the property sell their fractional interest to a developer
- Developer files a "partition action" asking a court to order the whole property be sold so that the developer can get the value of their interest
- The property gets sold.
- Proceeds from the sale are distributed among co-tenants based on their fractional interest.
- Result: family loses the land

In many cases, the point of gaining access to the land is to file a partition action with the final objective of gaining the whole piece of land.

- Partition sales are a common way African-American landowners have lost, and continue to lose, their land.
- A partition sale is a court-ordered sale of land.
- A partition action may be brought by any co-tenant, regardless of their percent interest.
- With a partition sale, at public auction, the highest bidder becomes the owner. The proceeds from the sale are then distributed among all the co-tenants of the property according to the size of their fractional interest.
- The end result is that the land is lost to the family.

Time: 10 Minutes

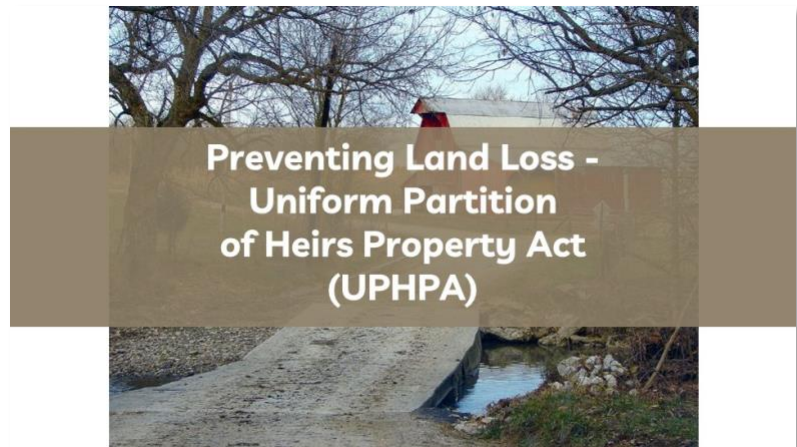
Materials: None

Handouts: None

SLIDE 64

INSTRUCTIONS

For decades, state partition laws contributed to widespread and devastating land loss among families who owned land as tenants-in-common. As a result of class action lawsuits and the publication of an article on partition action abuses, a task force was formed to start efforts to reform partition law. The next few slides give an overview of what this means to heirs' property owners.



Time: 1 Minute

Materials: None

Handouts: None

SLIDE 65

INSTRUCTIONS

The American Bar Association's (ABA) Section of Real Property, Trusts and Estates Law formed a task force and submitted a proposal in 2006 to the Uniform Law Commission. The Uniform Law Commission also known as the National Conference of Commissioners on Uniform State Laws worked to develop a model State statute that would address partition laws. The Uniform Law Commission approved the Uniform Partition of Heirs Property Act ("UPHPA") in the summer of 2010.

Note: It is important to note that the Uniform Law is not effective until adopted by state legislature. This is a map of states who have enacted the Uniform Partition of Heirs Property Act, highlighted in blue. It also shows states where the UPHPA was introduced, and those states are highlighted in green.

Source: <https://www.uniformlaws.org/committees/community-home?CommunityKey=50724584-e808-4255-bc5d-8ea4e588371d>

Uniform Partition of Heirs Property Act (UPHPA)

Uniform Partition of Heirs Property Act (UPHPA) is a model law that state legislatures can adopt. It creates fair procedures for heirs' property owners when a partition action is filed.

Under the UPHPA, heirs' property owners have rights that protect them from losing their land and if the land is sold, it is sold for a fair value.

We'll talk more about this in a later section of this training.

Where the Uniform Partition of Heirs Property Act has been **adopted** or **introduced** May 2024

Uniform Law Commission site at uniformlaws.org

Time: 2 Minutes

Materials: None

Handouts: None

SLIDE 66

INSTRUCTIONS

This slide gives a snapshot of the specific protections included. The following slides go into more detail.

01
02
03
04
05
06

How Does the UHPA Help?

Provides the following protections in partition actions:

- Enhances Notice
- Independent Appraisal
- Right of First Refusal
- Preference for Partition-in-Kind
- Open-Market Sale
- Partition in Kind- Dividing land into pieces of equal value for co-tenants

Time: 1 Minute

Materials: None

Handouts: None

SLIDE 67

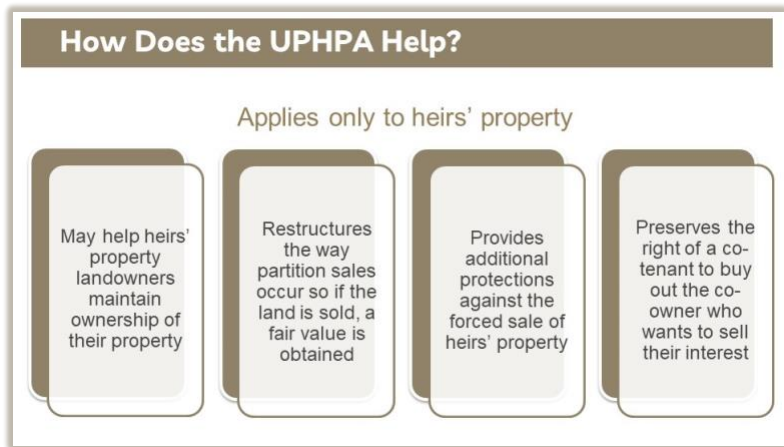
INSTRUCTIONS

This slide gives an overview of how the UPHPA helps heirs' property owners. The UPHPA contains legal protections for heirs' property landowners designed to address the devastating effects of partition sales while balancing the interest of all owners of the property. In order for a partition action to be governed by the UPHPA, the property in question must constitute "Heirs Property" as defined by the UPHPA.

NOTE: A co-tenant is defined as a person having a fractional ownership interest in property.

The next few slides give more detail.

Source: The Uniform Partition of Heirs Property Act, Section 2. Definitions.



Time: 2 Minutes

Materials: None

Handouts: None

SLIDE 68

INSTRUCTIONS

Be sure to emphasize that for your audience to understand how the UHPA can help resolve their heirs' property issue, it is important to speak with an attorney licensed to practice law in the state where the land (real property) is located.

Points to discuss include:

- The ethical rules concerning representing a family or one or more members
- Whether UHPA is enacted in your state, and if not, how the heirs' property law is governed
- How the UHPA or other applicable real property law may help resolve your heirs' property issue.

Critical Step to determine how the UHPA can help you...

Speak with an attorney licensed to practice law in the state where your land (real property) is located about the UHPA, its enactment in your state, and how it can help resolve your heirs' property issue.



Time: 1 Minute

Materials: None

Handouts: None

SLIDE 69

INSTRUCTIONS

Take a quick hand survey to see how the participants feel about the information they just learned.

01

Quick Survey

Did you learn some new information?

02

Do you understand why heir property is an important issue?

03

What is something you wish you had more information on?

Time: 1 Minute

Materials: None

Handouts: None

SLIDE 70

INSTRUCTIONS

Thank the participants and ask for any additional questions.



Time: 1 Minute

Materials: None

Handouts: None

Understanding Heirs' Property at the Community Level

[SAMPLE AGENDA]

[LOCATION]

[DATE]

[DATE]

- | | |
|-------|--|
| 8:30 | Welcome, orientation, objectives |
| | Introductions and warm-up |
| 9:15 | Overview |
| 10:00 | Break |
| 10:25 | Overview, continued |
| 12:00 | Lunch |
| 1:00 | Regroup, questions from over lunch, transition to Prevention |
| 1:20 | Prevention |
| 3:00 | Break |
| 3:20 | Day One Reflections, |
| 4:30 | Adjourn |

[DATE]

- | | |
|-------|--|
| 8:30 | Warm-up, recap, overnight questions |
| 9:00 | Resolution |
| 10:10 | Break |
| 10:30 | Resolution, continued |
| 12:10 | Last items, evaluation, closing activity, thanks |
| 12:30 | Adjourn |

[YOUR LOGO HERE]

HEIRS' PROPERTY: DEFINITIONS AND KEY TERMS

"DURING LIFE" DOCUMENTS

Conservatorship and/or Guardianship – the appointment of a guardian or conservator by a judge to manage the financial affairs and/or daily life of another person due to old age or physical or mental limitations

Living Will (advance healthcare directive) – a written, legal document that spells out medical treatments you would or would not want to be used to keep you alive, as well as your preferences for other medical decisions, such as pain management or organ donation, when you can no longer make decisions for yourself

Power of Attorney (POA) – a legally binding document that allows you to appoint someone to manage your property, medical, or financial affairs

"END OF LIFE" CONCEPTS, ROLES, & DOCUMENTS

Key Concepts

Assets – real or personal property (including cash/liquidity) owned by a person or company, regarded as having value and the ability to meet debts, commitments, or legacies.

Decedent – a person who has died

Estate – a person's property or net worth. When the person is deceased, their estate goes through probate and is distributed according to the terms of their Last Will & Testament. If there is no will, the estate is "administered" in accordance with the state's laws of intestate succession

Estate Administration – a court-administered process in which the probate court administers the estate in accordance with the state's laws of intestate succession to the decedent's heirs-at-law

Intestate – the decedent died without a valid Last Will & Testament. When a person dies intestate, the estate is distributed in accordance with the state's laws of intestate succession, after creditors are paid

Probate – a court-administered process in which the probate court confirms the validity of a Last Will & Testament and allows other people the option to challenge the will. The estate is then administered in accordance with the Last Will & Testament. (Called "succession" in Louisiana)

Testate – the decedent died with a valid Last Will & Testament

Roles

Administrator – a court-appointed person ordered to manage the estate of a deceased person who died intestate

Beneficiary – a person entitled to receive funds or other property under a trust, Last Will & Testament, retirement account, or insurance policy.

Executor/Executrix – a court-appointed person or institution who is responsible for carrying out the terms of a Last Will & Testament and overseeing the probate of the Will & administration of the assets/estate

Heir – a person legally entitled by law to the property of a decedent; a person inheriting and continuing the legacy of a predecessor

Notary – a person authorized to perform certain legal formalities and certify/witness signatures on estate planning documents, contracts, deeds, etc.

Personal Representative – a collective name for either Executors or Administrators

Spouse – a life partner in a marriage, civil union, or common-law marriage as recognized by state law

Testator/Testatrix – a person who has written and executed a Last Will & Testament before their death

Trustee – a trustee is a person or business that administers a trust

Documents

Codicil – an addition or supplement that explains, modifies, or revokes a Last Will & Testament or part of one

Holographic Will – a handwritten and testator-signed document that is legally binding in some states, but not produced by a lawyer

Irrevocable Trust – created when a person gives up his/her rights to change the terms of a trust once created. The trustor/grantor cannot later change the terms of an irrevocable trust.

Last Will & Testament (Will) – a document which directs how property (including minor children) is to be distributed to beneficiaries and heirs upon a person's death

Living Trust – a legal arrangement established by an individual (the grantor/trustor) during their lifetime to protect their assets and direct their distribution after the grantor's death. Avoids the probate process.

Mutual Will – a type of will, usually executed by a married or committed couple, that is mutually binding

Revocable Trust – allows the trustor/grantor to amend and make changes to the trust after it has been formed

Testamentary Trust – a trust that is specified in and created by a person's Last Will & Testament

Trust – a fiduciary arrangement that allows a third party, or trustee, to hold assets on behalf of a beneficiary or beneficiaries.

Ownership/Distribution of Property

Community Property – property owned jointly by a married couple (in some states).

Heir's Property – property owned jointly by numerous co-owners, most of whom are related. It usually passes from one generation to another when a landowner dies intestate or with no succession/estate planning for the land

Joint Tenancy with Rights of Survivorship – the holding of an estate or property jointly by two or more parties, the share of each passing to the other or others upon death.

Life Estate – an interest in property only for the life of a person with the remaining interest (remainder) to vest in others upon the death of the person holding the life estate

Per Capita – Latin term = “by head” or “for each head.” The inheritance is distributed among all the heads of your beneficiaries within the same generation/class. Lower generations are effectively disinherited.

Per Stirpes – a way of distributing the estate of a decedent where each branch of the family receives an equal share of an estate. Latin term = “by roots” or “by branch”

Tenants-In-Common – co-owners who jointly own property without rights of survivorship

Transfer on Death/Payable on Death – lets beneficiaries receive assets at the time of the person's death without going through probate

Types of Entities

Corporation – a legal entity that is separate and distinct from its owners. For profit corporations act through a board of directors selected by its shareholders (owners).

Limited Liability Company – a legal entity that is separate and distinct from its owners. It acts through its manager(s) or its members (owners)

HEIRS' PROPERTY

"THAT'S ME" ICEBREAKER

Instructions: Tell everyone in the room to move their chairs back so they can stand up and sit down easily without bumping into tables or other people. Let people know that if standing up and sitting down is difficult for them, they can simply raise their hands high.

To start, tell participants you will be reading some statements. If the statement is true for them, they will stand up, say "That's me" then sit back down. They start the icebreaker sitting down.

Do a quick practice statement relative to why people are assembled. This could include something like:

- I am in [location].
- I am at the [event name].

Encourage people to be enthusiastic with their responses. "That's me"

Some sample statements:

- I have lived in only one state my whole life.
- I have lived in another country.
- I have driven a tractor
- I have cooked for more than 20 people.
- I am the baby of the family.
- I am the oldest child in the family.
- I am a middle child.
- I work for a Land-Grant University
- I work for a non-profit or community-based organization
- I am a lawyer.

You can add/adapt to fit the content of your session. You can go to really fun and unusual statements, such as:

- I have ridden in a hot air balloon.
- I like rollercoasters.
- I like a good watermelon

or add in some that are more serious.

- I am deeply concerned about heirs' property.
- I know someone who has lost heirs' property land.

My family has lost heirs' property land.