

# A Methodological Approach to Estimate Residential Heirs' Property in the United States

The Housing Assistance Council

December 2023





# Research Report

## A Methodological Approach to Estimate Residential Heirs' Property in the United States



Photo: Rory Doyle. – There is more Work to Be Done



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# Contents

Executive Summary .....	4
Background on Heirs' Property in the United States .....	7
Approach .....	12
Methods.....	15
Analysis.....	22
Discussion.....	34



## Executive Summary

### Property and Land Retention Affect Generational Wealth

Property ownership has served as a tool for wealth accumulation. Residents engage in a housing journey towards purchasing property and gaining wealth through equity. The homeownership journey has been historically and systemically exclusionary, contributing to the racial wealth gap. Over generations, Native American and Black households have lost land due to a variety of systemic issues, including lack of access to a clear title. One form of title issues, heirs' property, is defined as properties with multiple owners and no clear title.

### Heirs' Property Can Be Created When Multiple Descendants Inherit the Property Without a Formal Transfer of Title

Heirs' property can be created by an owner passing away without a will, leading to the descendants inheriting the property with shared ownership. Properties inherited through wills or another form of estate planning can also become heirs' property when the owner chooses to leave the property to multiple descendants. If the heirs do not complete the formal title transfer process due to finances, a misunderstanding of the system, or family disagreements, the title becomes tangled.

### Heirs' Property Owners Face Many Barriers Without Access to a Clear Title

Owners of properties without a clear title are not able to access the equity in their home or maintain the property to allow the value to appreciate. A clear title is needed to sell the home at market rate or to obtain a mortgage, loans for upkeep, or insurance. Heirs' property owners are vulnerable to forced sales and property loss.

### The Housing Assistance Council (HAC), in Partnership With Fannie Mae, Conducted a Quantitative Analysis to Estimate the Prevalence of Heirs' Properties

Research on heirs' property has been ongoing for over 40 years. The estimates of the prevalence of heirs' property parcels have ranged from 0.03 percent to 9.6 percent. Most published research to date were limited specific localities due to the challenges of data availability and uniformity. In June 2023, Dobbs and Johnson Gaither published the first national estimate of heirs' property.

Using tax-assessment data provided by Fannie Mae via ICE Mortgage Technology, Inc., HAC aimed to estimate the prevalence of heirs' property in the country. HAC estimated the prevalence of two classifications of properties: those that are most likely heirs' properties and properties that are at risk of currently being or soon becoming heirs' property. HAC analyzed owner characteristics for indications of transfer of ownership upon the owner's death without completing the formal transfer of title. Property characteristics were also analyzed to identify properties with low building quality, no full tax exemptions, no recent sale, and no mortgage amount.

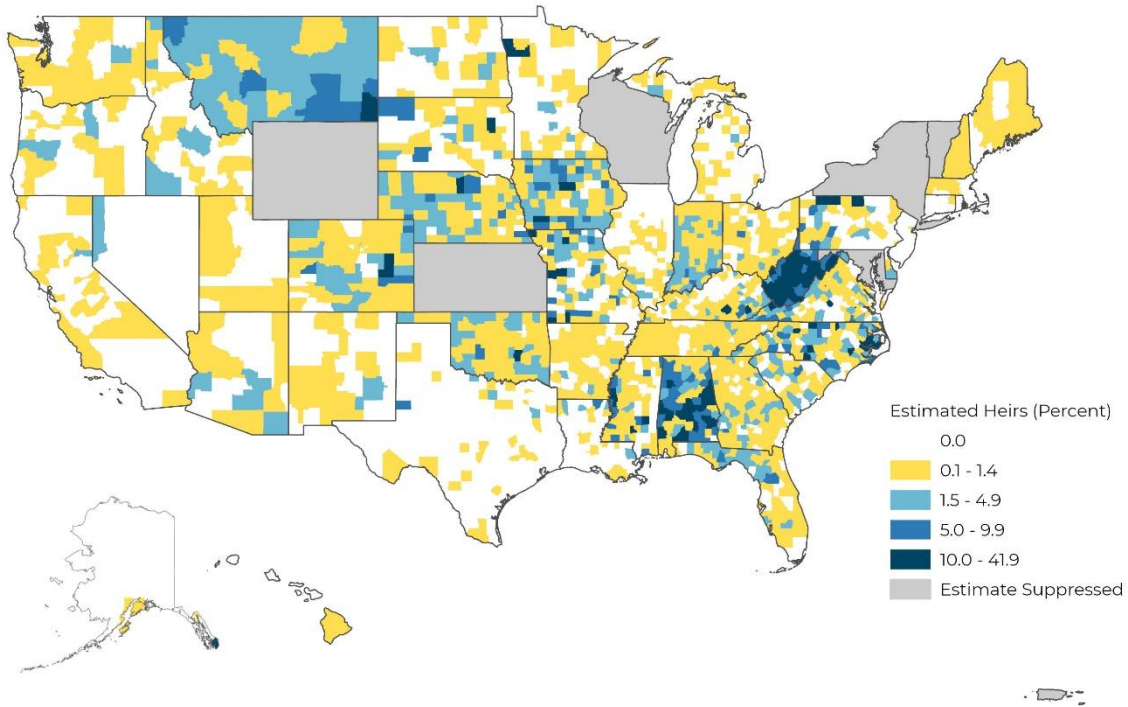
### The Estimates of the Prevalence of Heirs' Property are Conservative Due to Data Issues

Non-uniformity in tax assessment data collection poses a challenge when identifying heirs' property. Localities have varied tax assessment processes and data reporting. Most estimates of heirs' property to date have been limited due to issues associated with data availability. HAC had access to a robust data set that included all assessed residential properties except vacant properties. Nevertheless, due to missing assessment data, the exclusion of vacant properties, and non-uniformity in assessment processes, the research estimate of the prevalence of heirs' property across the country is very conservative. Six states, due to data accessibility and quality issues, were omitted from the analysis entirely.

The primary aim of this research is to present the relative prevalence of heirs' property. The estimates of identified heirs' property were very sensitive to specific indicators, including housing quality. The methodology produced a range, but researchers used the more conservative estimate for analysis. Estimates are as high as 10 percent in some states. Although the estimates are conservative, considering relative prevalence across counties and states can inform targeted outreach and mitigation strategies. The findings of this research are a baseline on which localities can incorporate identifiers and variables unique to their communities.



## Prevalence of Heirs' Property by County (Estimate)



Source: Housing Assistance Council Tabulations of BKFS Data.

### The Assessed Value of Identified Heirs' Properties is \$32 Billion Across 44 States and the District of Columbia

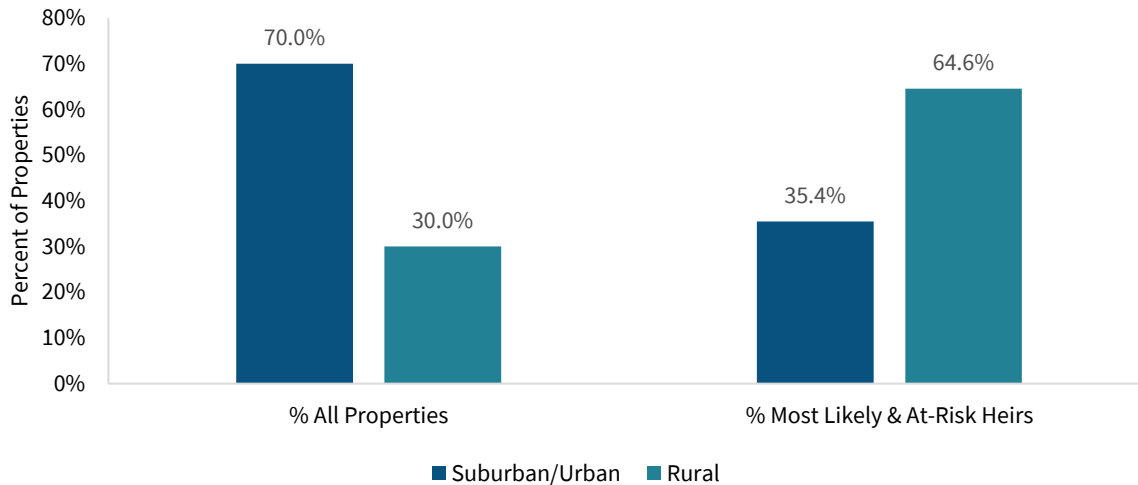
The total assessed value of all identified heirs' properties from 44 states and the District of Columbia is approximately \$32.3 billion. This is a very conservative figure due to the omitted states and some counties with identified heirs' property that did not have reported total assessed values. Additionally, depending on the localities' assessment practices, the assessed value may differ from the market value. This is a minimum estimate of the amount of wealth made inaccessible to households and communities by title issues.



## Identified Heirs' Properties are Disproportionately Located in Rural Census Tracts

Conducting an analysis using the Federal Housing Finance Agency's (FHFA) Duty to Serve 2022 rural geography, approximately two-thirds of identified heirs' properties are in rural census tracts.

### FHFA Duty to Serve Rural Geography and Identified Heirs' Properties



### Recommendations to Address the Issues of Heirs' Property Include Access to Complete Data, Education, Legal Aid, Financial Support, and Policy Changes

A multifaceted approach is needed to prevent the creation of future heirs' properties and aid current owners with title issues. Due to data availability issues, estimates of the prevalence of heirs' property have been conservative. Access to complete and uniform data is needed to identify heirs' property to inform targeted solutions. Continued national and localized research on the prevalence of heirs' property and the efficacy of solutions is needed. This will require a collaborative effort with commitments of financial support.

Heirs' property owners need legal aid, mediation, and financial support to complete the legal processes needed to clear titles. Education for current and future homeowners and access to legal aid are needed to support homeowners as they make informed decisions to prevent future title issues.

Financial support is needed for current and former heirs' property owners. Many heirs' property owners face barriers to accessing the capital needed to maintain the property. Financial products that are inclusive of all forms of homeownership are needed. Additionally, former heirs' property owners who have successfully cleared the property title need financial support to utilize the full benefit of newly accessible equity from their property.

Policy changes are needed to protect heirs' property owners and increase land retention. Twenty-three states, to date, have adopted The Uniform Partition of Heirs Property Act (UPHPA). This state legislation aims to mitigate the threat of land loss by providing heirs' property owners with increased protection and advanced notice in the event of a partition sale. While this state legislation provides some additional protection for heirs' property owners to retain ownership of their property, additional financial support is needed for owners who may pursue purchasing the divided interest from their co-owners. Additional federal policy changes are needed to expand access to legal aid, financial support, inclusion, and protection of heirs' property owners.

Solutions must allow property owners to choose their preferred form of land control while still being able to access the full benefits of homeownership. Heirs' property owners deserve to retain their land, accumulate wealth, and have autonomy over their property.





# Background on Heirs' Property in the United States



Photo: Rory Doyle. – There is more Work to Be Done





# Background on Heirs' Property in the United States

## Homeownership and the Racial Wealth Gap

In the United States, property and homeownership have been foundational to wealth accumulation, access, and personal and political agency. For some households, land ownership has cultural significance and serves as a connection to family and community. Yet the structures that support land retention and wealth accumulation have systemically excluded many residents including Indigenous, Black, and other communities of color, and residents of regions with persistent poverty.

The path to homeownership and the ability to build equity from homeownership looks different for each resident. The path can be broken down into four stages of a housing journey.<sup>1</sup> Typically, residents prepare to access housing and decide between renting and owning. Then, usually while renting, residents engage in the process of purchasing a home. Upon a successful purchase, owners move in and maintain their homes as the property appreciates. Residents may later choose to move or sell their homes and repeat the journey.

However, residents of color and low-income residents disproportionately face challenges along the journey to homeownership. Native American, Black, and Hispanic households have less generational wealth, higher cost burdens, and unequal access to financial systems than their White peers.<sup>2, 3</sup> These racial disparities persist and affect residents' ability to become homeowners or acquire wealth from homeownership.

The homeownership gap between White households (73 percent) and Black households (44 percent) is the highest it has been in ten years. The homeownership rates of residents of color demonstrate the disparities in access to homeownership. Nationwide homeownership rates are 56.7 percent for Native Americans,<sup>4</sup> 50.6 percent for Hispanics, and 63 percent for Asian Americans. When Native American, Black, and Hispanic residents do become homeowners, they are more likely to be cost burdened, experience higher rates of housing repair needs and own homes in regions disproportionately affected by natural disasters and hazardous waste.<sup>5, 6</sup>

Homeowners do not always acquire their properties through the typical process. Some homeowners reside on familial land or in family homes, and eventually inherit the property. This path to homeownership also presents challenges that disproportionately affect residents of color and low-income residents. Inherited properties can have title issues, which in some cases, are a product of generations of systemic exclusion from financial and legal systems. Due to various racial and economic disparities, land retention and wealth acquisition are inhibited for some households due to property title issues.

Research suggests that by 2045, during the Great Wealth Transfer, an estimated \$84 trillion will be transferred from the Baby Boomer generation to younger generations in the United States.<sup>7</sup> If significant solutions are not implemented to address the racial wealth gap, inequality will continue to widen. The racial wealth gap is projected to result in White households owning 99 times more than their Black counterparts and 75 times more than their Latino counterparts by 2053.<sup>8</sup>

The transfer of property ownership across generations is one of many factors contributing to generational wealth. Households that do not have estate planning or that own properties affected by title issues will not be able to access their generational wealth, thus potentially having greater impacts on the racial wealth gap. Research from Consumer Reports estimates that 61 percent of Whites, 67 percent of Asian-Americans, 77 percent of Blacks, and 82 percent of Hispanics do not have a will.<sup>9</sup>

Access to homeownership and ensuring that property owners have full agency to make housing decisions and acquire generational wealth is foundational to this research. The Housing Assistance Council (HAC), in partnership with Fannie Mae, developed a quantitative methodology to estimate the relative prevalence of title issues, including heirs' properties and tangled titles. Identifying and addressing title issues can inform strategies and solutions to support affected households.



## Heirs' Property Land Retention

### The Pathway to Property Ownership and Land Retention Has Been Exclusionary Throughout U.S. History

Systemic racism has impacted access to homeownership and land retention for residents of color in the United States. Originally, only White males had property rights. Further, the country viewed enslaved Black Americans as property and sought to protect the enslavers' "rights" to enslave others.<sup>10</sup> When slavery was outlawed, Black families pursued homeownership and built communities, but they faced continued violence.<sup>11</sup> Many factors and events, including racially motivated violence, the Great Migration, and systemic discrimination, led to significant land loss for Black residents.<sup>12, 13</sup> Research estimated that between 1865 and 1910, Black residents acquired 15 million acres of land.<sup>14</sup> By 1969, the estimated total of Black-owned land fell to approximately 5.5 million, and by 2001, an estimated 80 percent of that land was lost.<sup>15</sup>

In some Black communities, communal and familial land control provides communities of kinship tied to the land.<sup>16</sup> Historically, land ownership in the U.S. has been tied to political agency, particularly beginning in the era of Jim Crow Laws.<sup>17</sup> Owning property also provided personal power, housing security, and protection from homelessness. Communal and familial land control has been used as a means for inclusion and protection for some Black families.<sup>18</sup> Indigenous communities, Black Americans, and other residents of color have overcome generations of systemic racism to become property owners and continue to seek financial stability and wealth generation.<sup>19</sup>

Another example of how heirs' properties affect communities of color can be seen through the 'Fractionation' of some tribal lands within indigenous communities, as a result of the General Allotment Act of 1887. When a Native American allottee dies, the title is divided amongst all their heirs. The number of owners grows exponentially via heirship, resulting in increasingly fractionated land ownership. Fractional ownership creates issues with land use and the ability to access income and wealth from the land.<sup>20</sup>

Due to the design of the country's financial and legal systems, collective and familial land control presents challenges for the owners. The financial and legal systems prioritize private and individual land ownership, resulting in a lack of owner agency, access to needed financing, and market participation for owners of fractionated property. Commonly referred to as heirs' property and tangled titles, properties with multiple owners without a clear title may have financial and legal complications.

The design of the financial and legal system and compounded effects of systemic disinvestment impact low-income and rural households of all races and ethnicities. Rural communities are ten times more likely to not have access to in-person banking services in comparison to urban areas. The Federal Reserve identified 2,100 banking deserts, where communities lacked access to a physical bank, 1,500 of which are in rural areas.<sup>21</sup> In rural Appalachia, where 87.5 percent of residents are White non-Hispanic, the poverty rate is 19.7 percent, compared to non-Appalachian rural poverty rate of 15.1 percent and the nation's poverty rate of 11.6 percent.<sup>22, 23</sup>

Low-income and rural communities report inadequate access to legal help. Research from the Legal Services Corporation reports that low-income residents in the country reported not receiving any or enough legal assistance for 92 percent of their civil legal problems.<sup>24</sup> Civil legal problems include housing, providing for their families, and other problems often related to essential needs. While 77 percent of rural households had one or more legal issues in a one-year period, rural residents reported not receiving any or enough legal assistance for 94 percent of their civil legal issues. Approximately 21 percent of rural residents sought legal help for substantial legal issues.<sup>25</sup> Rural residents are also disproportionately located in legal deserts, defined as a county with fewer than one attorney per 1,000 residents.<sup>26</sup> Approximately 2 percent of law practices are in rural areas.<sup>27</sup>

Researchers suggest that the prevalence of heirs' property increases with systemic disinvestment and lack of access.<sup>28</sup> In some low-income and rural regions, persistent poverty, and lack of access to financial institutions and the legal system also impact rates of title issues, the prevalence of heirs' property, and wealth generation.<sup>29, 30</sup>

### Heirs' Property Can Be Created When a Property Owner Dies Without a Form of Estate Planning

Heirs' property can be created when an owner dies without a will or another form of estate planning. This type of property is transferred to heirs in joint ownership, usually called tenancy in common.<sup>31</sup> If the title is not cleared, the property continues to pass to additional heirs through generations. The heirs have claims to the property but may not be the current residents.

Regions with predominantly Black residents, Native American households, and households with lower economic standing experience barriers when seeking estate planning. Estate planning can be costly and requires the use of legal professionals. After generations of systemic harm through the legal system, some households of color are wary of engaging with the legal system.<sup>32</sup>



Due to generations of exclusion from property ownership pathways, legal systems, and financial systems, certain households frequently found alternate means of acquiring property and preserving land for future generations.<sup>33</sup> Barriers to engaging in formal estate planning, which contributes to the creation of heirs' property, disproportionately affecting rural regions, low-income communities, Black and Native American households, and other communities of color.<sup>34</sup>

### **Properties With Wills and Estate Planning Can Also Become Heirs' Property**

In some cases, property owners complete estate planning and choose to leave their properties to multiple descendants.<sup>35</sup> The original property owners may have undergone estate planning, but for a variety of reasons, the formal title transfer to the new owners was not completed.<sup>36</sup> The probate process through the local courts is a necessary step for most properties upon the death of the owner. The result is a "tangled title".<sup>37</sup> Owners of these properties also face challenges accessing the full equity and resources for their homes.<sup>38</sup>

Forms of familial and communal land control have cultural and historical significance for some communities. Emotional ties to land and the connection between kinship and land ownership are part of the reason an owner may choose familial land control and make a will that leaves the property to multiple descendants.<sup>39</sup>

### **Heirs' Property Owners Face Many Barriers Without Access to a Clear Title**

A clear title is required to access many financial resources for repairs or other common needs. Unable to repair the property, access equity, or sell the property, the owners' housing journey becomes stagnated. After a disaster, heirs' property owners are often required to submit proof of ownership to access disaster recovery funding. As an example, following Hurricane Katrina, 5 percent of applications were denied by FEMA because of title issues.<sup>40</sup> For other unforeseen events, heirs' properties cannot be insured without a title. A clear title is also required for sale at market value. Inability to access loans and grants for repair and upkeep may result in property loss, loss of generational wealth, abandonment, and community blight.<sup>41</sup>

Joint ownership of property leads to other issues of land control. Changes cannot be made to the property without written consensus among all living heirs.<sup>42</sup> Heirs who are not residents of the property may sell their share in a partition sale, in some instances, to developers. In some states, once a developer has acquired majority ownership, the developer can sue the remaining heirs to sell their ownership, called a forced sale.<sup>43</sup> Forced sales are significantly below market value, resulting in a loss of wealth for the family, and may result in displacement, even homelessness, for the property residents.<sup>44</sup>

Low-income residents face many barriers in clearing a title and completing the probate process. The process can be time-consuming and expensive, requiring legal attention and court proceedings.<sup>45</sup> The necessary legal assistance can be costly, particularly if mediation is required, and court fees are additional costs. The process is further complicated by the necessity to locate numerous potential heirs.<sup>46</sup>





# Approach





## Approach

### **HAC, in Partnership With Fannie Mae, Conducted a Quantitative Analysis to Estimate the Prevalence Of Heirs' Properties**

For this analysis, HAC used county tax assessment data provided by Fannie Mae via ICE Mortgage Technology, Inc. (ICE). The research aimed to use previously accepted regional methodologies on the national scale to identify regions with a high prevalence of heirs' property. HAC conducted demographic analyses of counties with an estimated high prevalence of heirs' property with data from the U.S. Census Bureau's American Community Survey (ACS). Data from the ACS was not used in the specific heirs' identification and estimation process.

### **The Estimation Process Considered Past Research and Efforts to Enumerate Heirs' Properties**

Previous research on heirs' property has incorporated property owner and community demographics such as race and ethnicity, education, and income. Specific property characteristics have also included assessment and deed data regarding recent sales, building quality, and mortgage amounts. Research has explored agricultural parcels, vacant land, and residential properties through a variety of data sources to estimate the scope of the issue. The Federation of Southern Cooperatives, considered pioneers in heirs' research, advocacy, and resolution, conducted one of the first heirs' research studies, commissioned by Congress in 1980.<sup>47</sup> Researchers from the then-named Emergency Land Fund, collaborated with tax assessors, tax collectors, circuit clerks, and other local professionals and residents to identify Black owned parcels. Once all Black-owned parcels were identified, researchers contacted each owner to verify the owners' race, address, and ownership status. Then, using a random sampling method, parcels were selected. Tax records were referenced for the size of the parcel and details of ownership. Interviews were conducted with the owners of the selected parcels to confirm heirship and estimate the prevalence of heirs' property. Researchers identified 27 percent of parcels and 41 percent of acreage as heirs' property.<sup>48</sup>

### **Property Records, Tax Records, and Death Records Contain Indications of Heirship in Owner Characteristics**

Since the research by the Emergency Land Fund, researchers have continued to explore methodologies focused on owner characteristics to estimate the prevalence of heirs' property in regions across the country.

Dyer, Bailey, and Tran (2008) identified parcels in heirship status in Macon County, Alabama, using property tax records. Researchers located parcels for which the taxpayer account name included indicators of heirship in the Collections and Account Status reports of the Revenue Commissioners' tax information. The initial analysis identified 2,313 (9.6 percent) accounts potentially in heirship. Filtering for active accounts resulted in a final estimate of 1,516 parcels likely to be heirs' property, comprising 4.1 percent of the acreage in the county.<sup>49</sup>

Johnson Gaither (2017) conducted an estimation of heirs' properties in colonias in Maverick County, Texas. Indicators of multiple owners in the owners' name column of the taxed parcel database from BIS Consulting in Farmer's Branch, Texas, were used to identify properties in heirship. Properties with "multiple owners," "undivided interest," and percentages or fractions of interest were classified as heirs' property. Johnson Gaither identified 186 (0.7 percent) heirs' property parcels in the county. Of the 9,113 parcels in the county's colonias, 37 (0.4 percent) were identified as heirs' properties.<sup>50</sup>

The Southern Region Heirs Property Collaborative (2021) also used name indicators and associated abbreviations on records in the local County Revenue Commissioner's Office to identify parcels potentially in heirship status. Researchers selected counties in Alabama, Mississippi, Louisiana, Texas, Georgia, and Florida, based on population demographics and other factors, including data availability. Researchers identified 7,559 parcels (4.6 percent) across ten counties in Alabama, 4,557 (7.9 percent) parcels in five counties in Mississippi, 2,176 (5.2 percent) in four parishes in Louisiana, 21,320 (3.3 percent) in ten counties in Texas, and 3,377 (4.2 percent) in eight Georgia counties, and 3,758 parcels in eleven counties in Florida. Computer-assisted mass appraisal (CAMA) data were used in Florida and Georgia due to data consistency and availability issues.<sup>51</sup>

A Pew Charitable Trusts report identified tangled titles by identifying properties in Philadelphia recorded in the name of a deceased owner. Hinken et al. (2021) used Social Security Administration death records. Researchers identified 10,407 properties with a surviving record owner who did not automatically receive ownership and properties with no surviving record owners. Compared to the 2007 Philadelphia VIP study which identified 14,001 (2 percent) tangled titles, this research used a stricter definition of tangled titles. Philadelphia VIP assumed any property not sold since 1941 had a tangled title and, for properties with sales after 1971, only one owner's death was confirmed, in comparison to all owners in the 2021 study.<sup>52</sup>

Using 2021 Name-Address-Legal (NAL) real property tax roll data from the Florida Department of Revenue, Stein and Carpenter (2022), with the Federal Reserve Bank of Atlanta, identified heirs' properties by owner names that included indication of heirs' property. In Duval County, Florida, researchers identified 29,389 (9.2 percent) residential parcels likely to be in heirship status.<sup>53</sup>



Most recently, Dobbs and Johnson Gaither (2023), used owner name indicators to estimate the prevalence of heirs' property parcels across the nation.<sup>54</sup> Using LightBox data from the USDA Forest Service from November 2021, Dobbs and Johnson Gaither identified 444,172 heirs' property parcels across the country with a total combined worth of \$41.3 billion.<sup>55</sup>

### **Some Private Data Resources Contain Properties Flagged as Heirs' Property**

Multiple researchers state that access to complete data is a primary challenge associated with estimating the prevalence of heirs' properties. In addition to investigating owner characteristics, other researchers have procured private data sets which include properties flagged as known heirs' property. Using the 2012-2016 CoreLogic Real Estate Dataset, researchers analyzed properties flagged as heirs' property in various geographic regions.<sup>56</sup> This data included residential properties and excluded agricultural land.

Carpenter, Jones, and Pippin (2016) with the Federal Reserve Bank of Atlanta focused on the southeast region, looking at estimates in Alabama, Florida, Georgia, and parts of Louisiana, Mississippi, and Tennessee. Across the six states, 85,607 (0.5 percent) of properties were flagged as heirs' properties or were owned by tenants in common. Other properties were identified as potentially in heirship, with 239,368 (1.3 percent) identified as life estates and 107,175 (0.6 percent) identified as estates.<sup>57</sup>

Taylor, Johnson Gaither, et al. (2020) estimated the prevalence of heirs' property using CoreLogic data and parcel records from Digital Maps Products. Researchers also noted significant omissions in the data. Across three states, Alabama, Georgia, and Kentucky, 62,806 (0.6 percent) parcels were identified as heirs' property.<sup>58</sup>

Carpenter and Ravindranath Waddell (2021) with the Federal Reserve Bank of Richmond stated that inconsistencies and omissions in the data could not produce an overall estimate. The prevalence of heirs' property in Virginia and Maryland ranged from 0.03 to 3.3 percent.<sup>59</sup>

### **Property and Tax Records Contain Indications of Heirship Property Characteristics**

Other research assessed property characteristics and demographic data to identify heirs' properties.

Georgia Appleseed used tax records and Superior Court land records to identify properties with specific characteristics. Using two rounds of data analysis, researchers conducted an in-depth analysis of the electronic county tax assessor records for 20 selected counties. Tax parcel cards were analyzed for homeowner and property information, including address, land value and improvement, acreage, and owner name. Properties were considered to potentially be heirs' property if they had low land value, no recent sales, no recent improvements, and a different mailing address from the property address. Round two of the research focused on five selected counties. Researchers compared tax assessor records and Superior Court land records from the Georgia Superior Court Clerks Authority website to confirm heirship status for the parcels identified in round one. Researchers identified 1,620 (0.9 percent) heirs' property parcels across the five selected counties in Georgia.<sup>60</sup>

In 2017, Pippin, Jones, and Johnson Gaither, with the U.S. Department of Agriculture, identified counties for analysis using U.S. Census Bureau demographic data, the Social Vulnerability Index, and natural hazard and disaster data from the Forest Service Southern Region. Indicators for each county included a high percentage of racial and ethnic minority populations, high poverty rates, low per capita income, and low educational attainment.<sup>61</sup> CAMA data were used to analyze parcels in selected counties using characteristics of ownership by natural people, no preferential tax status, and older transfer dates as indicators of a lack of good title. Approximately 19 percent of all parcels in selected Georgia counties were identified as heirs' property. Across the five selected counties in the Black Belt region, 34,463 acres, an average of 4 percent of each county's area, were identified as heirs' property.<sup>62</sup>

Thomson and Bailey (2023) used CoreLogic data to estimate the prevalence of heirs' property in the southeast and Appalachia.<sup>63</sup> Focusing on eleven states, researchers used four indicators: ownership rights, "care of" in the owners' name, year built, and no sale in 29 years in their methodology. If properties had four points out of a possible five points, based on the indicators, they were identified as heirs' property. This research identified 496,994 heirs' parcels, with a combined estimated market value of \$41.9 billion.<sup>64</sup>

### **Indicators of a Caretaker and No Recent Sale are Strong Predictors of Heirs' Properties**

Johnson Gaither and Zarnoch (2017) focused their research on heirs' properties in Leslie County, Kentucky, and Macon-Bibb County, Georgia. The counties were selected to enable comparison of a rural and an urban county with available relevant data sets. For Leslie County, taxed land parcel data were obtained from the Property Valuation Administrator's Office. Parcels were indicated "heirs' of" in the owner name variable which allowed for identification of heirs' properties. Macon-Bibb County tax parcel CAMA data were acquired from the University of Georgia's Carl Vinson Institute of Government Office of Information Technology Outreach Services. The data also included a notation of "heirs" in the owner name to identify heirs' properties. The





study did not report the prevalence of heirs' property; rather, the researchers tested the predictive strength of other demographic indicators in identifying heirship.<sup>65</sup>

Researchers found that the greatest concentrations of heirs' parcels were in census block groups with high concentrations of Black residents, higher proportions of residents below poverty, and lower educational attainment. Using an Ordinary Least Squares (OLS) regression, the proportion of the population without a diploma was the most strongly correlated with the concentration of heirs' property. Researchers suggest that heirs' properties emerge from areas with social marginalization.<sup>66</sup>

Researchers also used logistic models to analyze the predictive value of tax assessment indicators, including properties with a lower per acre value, a caretaker, no sale within 30 years, and an owner's mailing address in a different state than the property. Indicators of a caretaker and no sale in the last 30 years were strong predictors of heirship. The accuracy of using those two indicators in identifying heirs' property was reported as 67 percent in Leslie County. In Macon-Bibb, using the same indicators, parcels were identified with an accuracy rate of 48 percent. In both counties, the predictive model also included false positives.<sup>67</sup>

### **Estimates of the Prevalence of Heirs' Property Vary by Methodology and Region**

Estimates of the prevalence of heirs' property in various counties have ranged from 0.03 percent to 9.6 percent of residential properties.<sup>68,69</sup> The variations in estimates across research can be attributed to the fluidity of real estate, data sources, data availability, and variations in data collection across localities.<sup>70,71</sup> Often to the detriment of the owners, heirs' properties can be cleared over time. Through forced sales, tax delinquency, foreclosure, and other methods of property loss, properties with title issues in the past may have a clear title today. Heirs' property is not a static issue as the fluidity of the real estate market demands will cause the scope of the problem to fluctuate over time.<sup>72</sup>

Variations in methodology, including using the characteristics of those responsible for paying taxes (assesseees), community demographics, property characteristics, and owners' deaths have been used to estimate heirs' properties. Researchers have also used units of acreage, land parcels, and residential properties. Data used in prior research included agricultural land, vacant property, and occupied residential properties. The variation in methodology often inhibits the ability to make direct comparison between different research studies and models. All researchers, regardless of their methodology or data source, state that the variability and incomplete nature of the data produces conservative estimates.

### **HAC Conducted Research Informed by Prior Research**

HAC aims to highlight regions with a relatively higher prevalence of heirs' property and contribute research observations to the field by applying prior regional research methodologies to all counties in the nation. Given the observations of all prior research regarding data availability, HAC used both owner and property characteristics to determine the prevalence of heirs' property. Using county tax assessment and deed data provided by Fannie Mae via ICE Mortgage Technology, Inc., informed by prior research, and in collaboration with Fannie Mae's Enterprise Data Team, HAC determined which variables were reliable for national analysis.

HAC's use of owner characteristics was similar to that employed by Dyer et al. (2008). However, given the repeatedly noted issue of nonuniformity in data, it can be assumed that such terms will not be used in every heirs' property tax record and therefore this method alone will produce very conservative results.

HAC also used property characteristics in the methodology, including the lack of recent sales, which was determined by Johnson Gaither et al. as a strong predictive indicator of heirs' property.<sup>73</sup> Georgia Appleseed and other researchers noted that incomplete property characteristics data also results in conservative estimates.<sup>74</sup>

The research analyzes residential properties across the country. The data set does not include vacant residential properties or agricultural land. All estimates presented in this research are conservative.





# Methods



Photo: Jennifer Pmerling – There is more Work to Be Done



## Methods

### **The Estimation Process Incorporated Both Owner and Property Characteristics to Identify Potential Heirs' Property**

HAC aimed to create a methodology that would capture the fluidity of heirs' property as well as possible on a national scale given data uniformity and availability issues. In this approach, researchers aimed to estimate the prevalence of two classifications of properties: those that are most likely heirs' properties and properties that are at risk of currently being in heirship or may soon become heirs' property. Methodology was implemented to estimate the relative prevalence of two classifications: *Most Likely Heirs' Property* and *At Risk of Being Heirs' Property*.

## Most Likely Heirs' Property

Properties included in this classification have an indication of transfer of ownership upon the owner's death without completing probate and the formal transfer of title.

### **Properties without Indications of Formal Title Transfer in Owner Characteristics were Selected**

Properties with terms in the assessee/owner name which indicated a transfer of ownership upon the owners' death without probate were identified. The use of this terminology is not standard practice across the country. This research selected the terminology that was most commonly used in tax assessment data to signify that the owner had passed away and the property had not completed the formal title transfer process.

### **Properties with Vesting Codes which Signify Ownership by Multiple Real Persons were Selected**

When analyzing the data set, researchers noticed there were properties that contained indications of estate planning, but the property had not undergone probate. Using the assessee/owner vesting codes, the research model identified properties most likely to be in heirship status due to having tangled titles. Vesting codes identify how the property was transferred from the former owner to the current owner(s). Researchers also noticed a subset of the tangled title properties with indicators of estate planning that may signify that the deceased owner may have chosen a form of familial land control, but the property may not have undergone probate or the legal ownership transfer.

The research team also analyzed the owner vesting codes to include only properties owned by multiple real persons. Properties with vesting codes such as "corporation," "doing business as," "government," and "partnership" were excluded. Also excluded were properties with vesting codes that signified sole ownership, joint tenants, living trusts, or a transfer to a spouse.

## At Risk of Being Heirs' Property

HAC analyzed property characteristics to identify properties with indicators aligned with a lack of clear title. Due to variation across localities in reporting deceased homeowners and updating owner/assessee information, using name indicators may significantly misrepresent the prevalence of the issues. To better represent the relative prevalence of heirs' properties, the researchers also analyzed property characteristics associated with a lack of clear title. The indicators included no recorded sale in 30 years, no full tax exemptions, low building quality and condition, and no mortgage amount. Properties with all four characteristics were labeled at risk of being heirs' property.

In the following section, the research findings are reported separately for each category, at risk and most likely, then combined for all identified properties.



## Estimate of Properties At Risk of Being Heirs' Property

### The At Risk Category Identified Properties Using Characteristics That May Demonstrate the Presence of Title Issues

The properties identified in this category are at risk of already being in heirship status or soon becoming heirs' property without intervention. This classification was included to highlight regions that may need targeted interventions and to identify properties that may be in heirship status but located in regions that do not adhere to the owner naming assessment systems. The estimates included in this classification included a range and are not exact estimates. The estimates provided are intended to highlight regions with a relatively high prevalence of heirs' properties or the potential for heirs' properties.

### Additional Adjustments Were Implemented to Minimize Anomalous Results in the At Risk Category

Throughout the research process, some states produced anomalous results where the at risk property prevalence differed greatly from the most likely prevalence. Because the most likely heirs' category has specific indicators of multi-person ownership, it was used as the baseline. States were ranked by quintile based on the prevalence of their most likely and at risk identified properties. As demonstrated in Table 1, states that had a two-quartile or more difference between the two categories were not included in the analysis. Those states were Kansas, Maryland, New York, Vermont, Wisconsin, and Wyoming. The properties identified in these states were omitted from the estimate and associated analysis.

**Table 1. Quintiles for States Omitted from At Risk Analysis**

State	Most Likely Quintile	At Risk Quintile	Difference in Quintile
Kansas	1	4	3
Maryland	4	0	4
New York	3	0	3
Vermont	4	1	3
Wisconsin	4	0	4
Wyoming	1	4	3

Past researchers focused on the southeast used these characteristics to identify at risk properties because they were considered to be anomalous for properties in the region, and thus indications of a lack of clear title. In some regions and states, including the states omitted from this portion of the analysis, low rates of new mortgages, lower housing stock quality, and infrequent sales were more common. The research team believed that in those places those factors demonstrated housing quality issues and lending deserts rather than indicating properties at risk of being in heirship status.

When analyzing three of the indicators, mortgage, sale date, and tax exemption, researchers included properties that did not have data reported. The data set did not have an indicator to determine whether properties had data missing or if the property did not have the associated characteristics. The research proceeded by assuming that no data meant the property did not have the characteristic, and were considered at risk of being heirs' property.

Data availability issues, including the presence of physical versus electronic data in some localities, affected the results of this methodology. Localized research is needed in these states to identify properties at risk of being heirs' property. Further analysis of each variable used in the at-risk category is included in the discussion section.



### **Estimates of At Risk Properties Were Highly Sensitive to Housing Quality and Condition**

The methodology used four characteristics to identify properties at risk: no mortgage, no recent sale, building quality and condition, and no full tax exemptions. In conversation with practitioners and assessors, researchers learned that the assessment of building quality and conditions varies by locality. In some localities, the measure of excellent, average, poor, and unsound building quality and condition is relative to other housing stock. In other regions, the building quality is assessed in relation to the date the home was built. Assessors consider the year the home was built and determine the quality of the home in relation to the expected condition of a home of that age.

Considering the variation in the assessment of building quality and condition, researchers began the research process by analyzing properties with no sale within the last 30 years, full tax assessment, or mortgage, and non-excellent building quality. The initial results identified 50 percent or more of all residential properties in 31 states. Ten states had 80 percent or more of properties in this category. The results demonstrated other macro housing issues but did not solely isolate properties at risk of heirship.

Qualitative exploration in Kansas suggested that missing data, specific local assessment procedures regarding building quality and condition, and the quality of local housing stock may result in inflated results for the at-risk properties. Researchers aimed to test the sensitivity of the variables with the available data. Three of the variables used identified properties based on the absence of the characteristic; the lack of mortgage, lack of full tax exemption, and lack of a recent sale. Given the nature of the three aforementioned variables, the only variable that could be used for sensitivity testing was building quality/ condition.

Researchers tested the methodology with a filter for average or lower housing quality and condition. The “middle range housing quality” included properties with average to unsound housing quality and condition. After applying the indicator, the total number of identified properties was 3,713,350. This is not the final estimate used for analysis. Although title issues can occur in housing of any quality and condition, this at-risk methodology was intended to capture older properties in which other indicators of multi-person ownership were not otherwise present.

Researchers adjusted the methodology to identify properties with no mortgage, no full tax assessment, no recent sale and assessed as poor or unsound quality. The methodology resulted in a conservative estimate of 491,537 (0.5 percent) properties at risk of being heirs’ property.

Additional data and localized research are needed to estimate properties at risk of being heirs’ property. Data that separates missing data from null, i.e., including “0” for mortgage amounts separate from an indicator for no mortgage data available, would produce more accurate results. Additionally, local context for the assessment process for building quality and condition is needed for the estimation process.

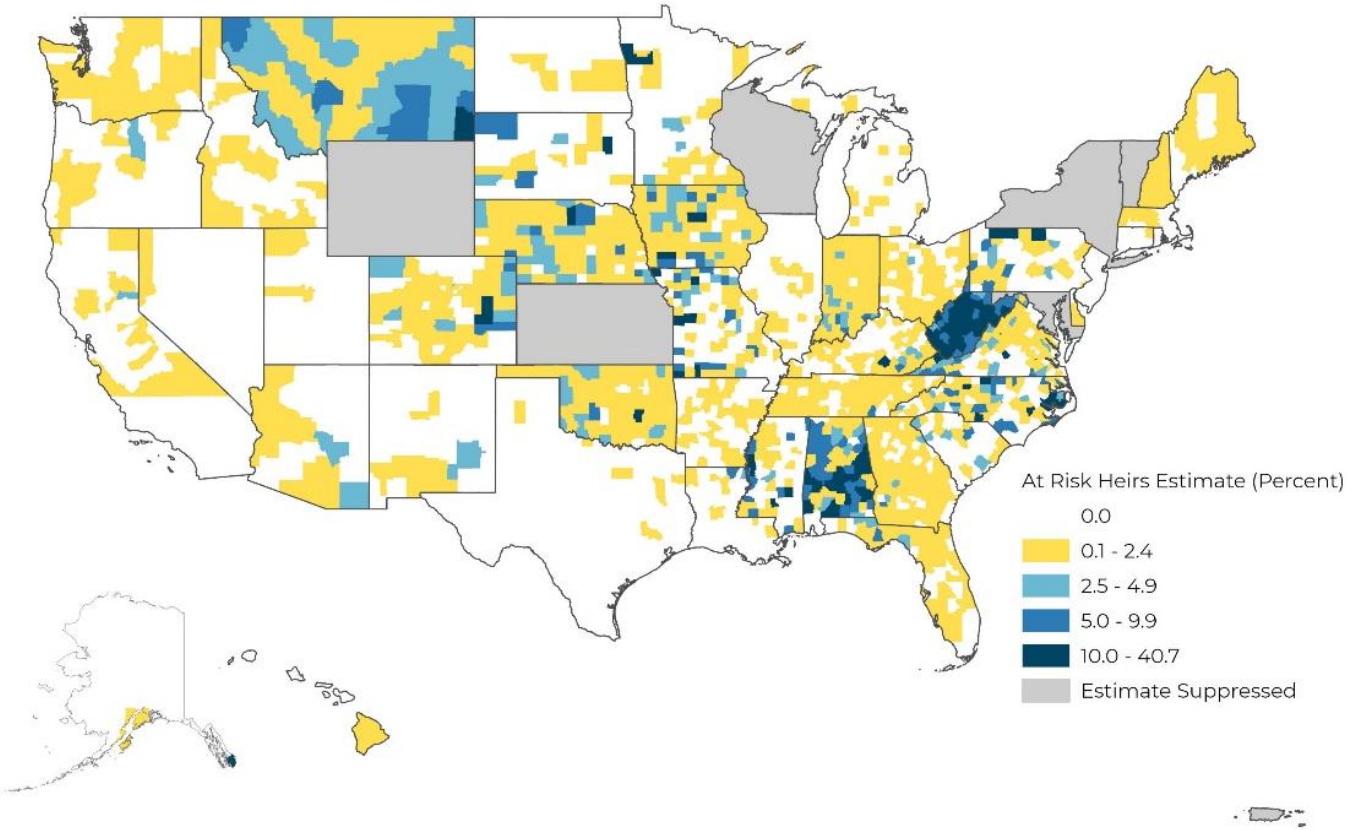
### **Ultimately, the Research Model Estimated the Prevalence of “At Risk Heirs” Using the Most Conservative Model**

Researchers concluded that there are, at minimum, 491,537 properties in the U.S. at risk of being heirs’ property. The research analysis focuses primarily on relative prevalence for further understanding of the issue. However, it is important to acknowledge that data variability and availability produced very conservative results that do not reflect the magnitude of the issue.

The analysis categorized the prevalence of heirs’ properties by county. The percentages were calculated using the total number of residential properties in ICE’s data at the time of the study.



**Map 1. Prevalence of Estimated At Risk Heirs' Properties by County**

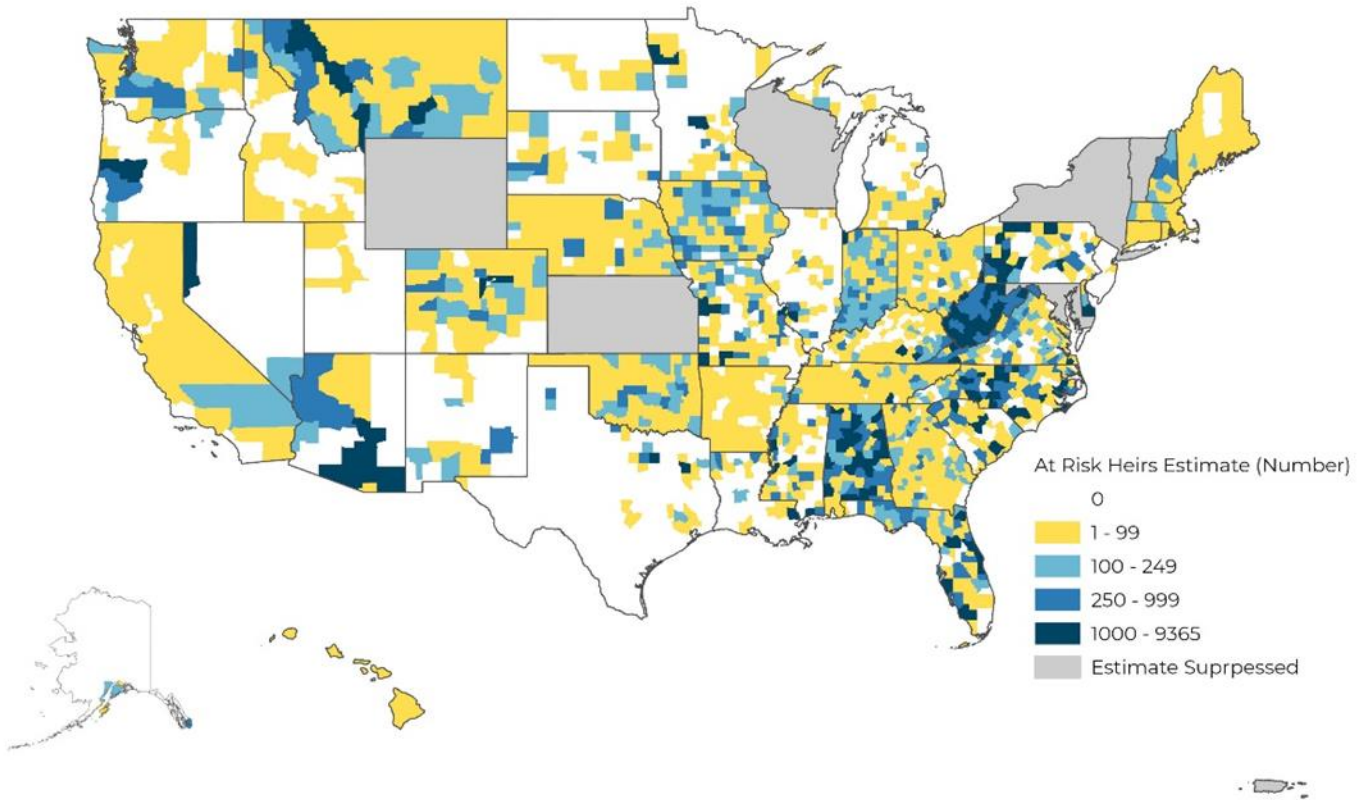


Source: Housing Assistance Council Tabulations of BKFS Data.





**Map 2. Estimated Totals of At Risk Heirs' Properties by County**



Source: Housing Assistance Council Tabulations of BKFS Data.



# Identification of Most Likely To Be Heirs' Property

## The Most Likely Category Estimated the Prevalence of Properties Based on Indicators in the Owner/Assessee Name and Vesting Codes

Properties included in this category had indicators of being owned by multiple real persons with a transfer of ownership upon an owner death without probate.

### The Methodology Identified 88,834 “Most Likely” Heirs' Properties

The research identified 88,834 properties with indications of being owned by multiple real persons through a transfer of ownership upon the owners’ death without completing the legal transfer of ownership. These properties were classified as most likely to be in heirship status and represent 0.1 percent of residential properties in the 44 states included in the analysis and the District of Columbia. To the researchers’ knowledge, the methodology of using both terminologies in the owner/assessee name and filtering by vesting codes is one of the more conservative methodologies used in heirs’ research to date, thus producing very conservative estimates. Using the terminology in the owner/assessee name is not a uniform practice in property tax assessment and parcels with missing data affected these estimates. This section presents an analysis of the properties identified in the most likely category.

North Carolina and Florida each had more than 10,000 properties identified in the most likely heirs’ property category. Five of the ten states with the most properties identified in this category are in the southeastern U.S., which contains two high-need regions: Central Appalachia and the Lower Mississippi Delta.<sup>75</sup> West Virginia and Alabama had the highest percentages of properties in the most likely category. While there is some overlap between the states with the highest number of identified properties and states with the greatest prevalence, Georgia and California are in the top ten for total properties but not for percent. Inversely, Iowa has the sixth highest percentage of properties but is not in the top ten of total properties estimated.

**Table 2. Top 10 ‘Most Likely’ Heirs’ States**

Top Ten States with the Greatest Total Most Likely Heirs’ Properties	Total Most Likely Heirs’ Properties	Top 10 States with the Greatest Percent of Most Likely Heirs’ Properties	Percent Heirs’ Properties
Florida	23,256	West Virginia	0.5%
North Carolina	13,275	Alabama	0.4%
Alabama	6,344	North Carolina	0.4%
Indiana	6,272	Florida	0.3%
Ohio	4,133	Indiana	0.3%
West Virginia	3,371	Iowa	0.2%
Georgia	2,881	Mississippi	0.1%
South Carolina	2,775	South Carolina	0.1%
Texas	2,657	Kentucky	0.1%
California	2,558	Ohio	0.1%

### Prevalence of Most Likely Heirs’ Properties Varies by County with Estimates as High as 15 Percent

The prevalence of most likely heirs’ property varies by county. The ten counties with the highest prevalences range from 5 percent to 15 percent of all residential properties identified as most likely to be heirs’ property. The county with the highest percent of estimated most likely heirs’ property is located in Kentucky. Five counties with the highest estimated numbers of most likely heirs’ property are located in Florida. Other counties in the top ten highest prevalence are located in a variety of states including Texas, Alabama, West Virginia, North Carolina, and Iowa.





# Analysis: Estimates and Characteristics of Heirs' Property



Photo: Rory Doyle. – There is more Work to Be Done



## Analysis: Estimates and Characteristics of Heirs' Properties

The research implemented methodologies to identify properties with specific indicators of multi-person ownership without probate. Understanding that the estimates would be affected by missing data and non-uniform data collection practices, researchers also estimated heirs' properties using property characteristics. This section includes an analysis of the combined heirs' property estimates for the 44 states and the District of Columbia.<sup>1</sup>

The combined estimate of identified heirs' properties is 508,371, which accounts for 0.5 percent of the 94,201,062 residential properties in the 44 states and the District of Columbia. The states with the highest combined estimates were West Virginia, Alabama, and Montana. West Virginia had the highest prevalence at 10.1 percent of all residential properties. Most counties with the highest percentages were located in the southeast region of the country. Map 3 presents the prevalence of properties by county. States that were omitted from reporting in the at risk category are also excluded in this analysis.

**Table 3. Combined Estimates of Heirs' Property**

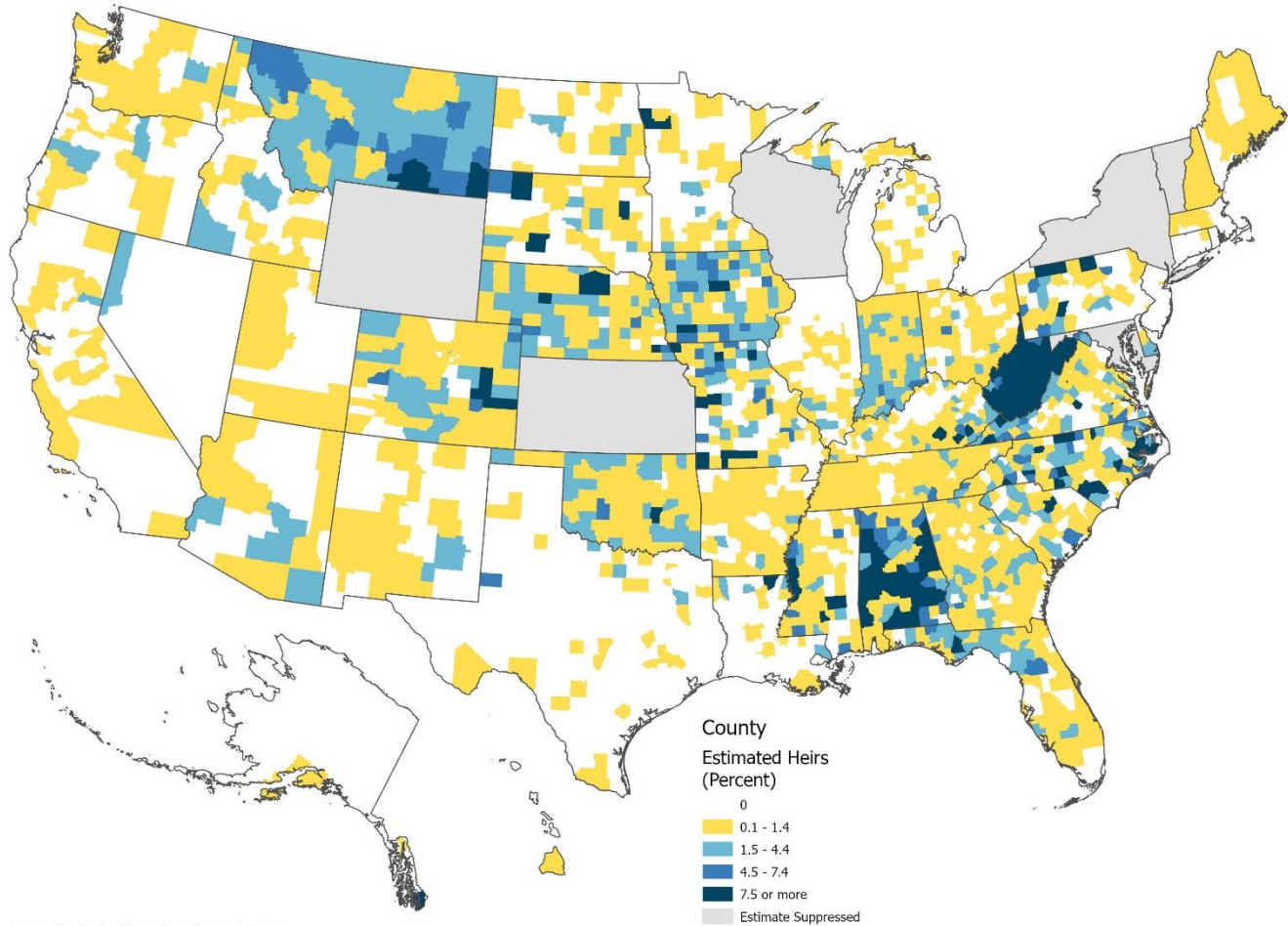
Identified Heirs' Property	Total	Percent
Most Likely	88,834	0.1%
At Risk	491,537	0.5%
Total Estimate of Identified Heirs' Properties	508,371	0.5%
Total Residential Properties		94,201,062

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<sup>1</sup> Researchers conducted a similar descriptive analysis using all 50 states and the District of Columbia to better understand the degree to which removing the six states might be impacting the findings. The results were similar with the same patterns and trends still evident.



**Map 3: Prevalence of Properties Most Likely and At Risk of Being Heirs' Property by County**



Source: Housing Assistance Council generated map.

Researchers mapped the prevalence of heirs' property by county for the 44 states and the District of Columbia. The map was created to clearly highlight counties with relatively high prevalence of heirs' property. Counties in the last category, demonstrated in dark blue in Map 3, have the highest prevalence of 7.5 percent of residential properties or more.

**Table 4. Identified Heirs' Property by State**

State Name	Total Properties	Most Likely Heirs' Property	Percent Most Likely Heirs' Property	At-Risk Heirs' Property	Percent At-Risk Heirs' Property	Total Estimate of Heirs' Property	Percent Estimated Heirs' Property
West Virginia	701,182	3,371	0.48%	67,346	9.60%	70,717	10.09%
Alabama	1,678,069	6,344	0.38%	68,321	4.07%	74,665	4.45%
Montana	414,292	357	0.09%	12,901	3.11%	13,258	3.20%
North Carolina	3,760,932	13,275	0.35%	59,639	1.59%	72,914	1.94%
Mississippi	1,015,755	1,439	0.14%	16,651	1.64%	18,090	1.78%
Missouri	2,124,516	1,341	0.06%	29,644	1.40%	30,985	1.46%
Iowa	1,212,658	2,272	0.19%	15,061	1.24%	17,333	1.43%
Kentucky	1,711,562	1,934	0.11%	14,917	0.87%	16,851	0.98%
Indiana	2,305,707	6,272	0.27%	14,704	0.64%	20,976	0.91%
Nebraska	663,467	444	0.07%	4,608	0.69%	5,052	0.76%
Pennsylvania	4,293,608	1,292	0.03%	33,324	0.78%	34,616	0.81%
South Carolina	2,084,358	2,775	0.13%	14,198	0.68%	16,973	0.81%
South Dakota	285,930	153	0.05%	1,864	0.65%	2,017	0.71%
Virginia	2,813,111	644	0.02%	19,949	0.71%	20,593	0.73%
Alaska	177,975	2	0.00%	996	0.56%	998	0.56%
Delaware	387,929	119	0.03%	2,365	0.61%	2,484	0.64%
Florida	7,727,675	23,256	0.30%	22,461	0.29%	45,717	0.59%
Oklahoma	1,315,751	1,546	0.12%	6,772	0.51%	8,318	0.63%
Tennessee	2,501,800	1,771	0.07%	13,680	0.55%	15,451	0.62%
Colorado	1,954,530	1,816	0.09%	7,815	0.40%	9,631	0.49%
Georgia	3,575,822	2,881	0.08%	12,340	0.35%	15,221	0.43%
Arizona	2,390,925	369	0.02%	7,325	0.31%	7,694	0.32%
Louisiana	1,573,371	750	0.05%	4,460	0.28%	5,210	0.33%
Minnesota	1,864,978	301	0.02%	5,401	0.29%	5,702	0.31%
Nevada	984,613	12	0.00%	2,781	0.28%	2,793	0.28%
New Hampshire	495,075	5	0.00%	1,454	0.29%	1,459	0.29%
Arkansas	1,164,745	1,197	0.10%	1,059	0.09%	2,256	0.19%
Idaho	691,483	129	0.02%	1,427	0.21%	1,556	0.23%
New Mexico	729,392	118	0.02%	1,288	0.18%	1,406	0.19%
North Dakota	203,217	67	0.03%	361	0.18%	428	0.21%
Ohio	3,956,931	4,133	0.10%	4,816	0.12%	8,949	0.23%



**Table 4 Cont. Identified Heirs' Property by State**

State Name	Total Properties	Most Likely Heirs' Property	Percent Most Likely Heirs' Property	At-Risk Heirs' Property	Percent At-Risk Heirs' Property	Total Estimate of Heirs' Property	Percent Estimated Heirs' Property
Oregon	1,360,506	153	0.01%	3,105	0.23%	3,258	0.24%
Washington	2,365,383	284	0.01%	3,351	0.14%	3,635	0.15%
Illinois	3,891,154	877	0.02%	3,866	0.10%	4,743	0.12%
Maine	521,985	7	0.00%	609	0.12%	616	0.12%
Michigan	3,759,357	1,569	0.04%	2,348	0.06%	3,917	0.10%
Texas	8,869,162	2,657	0.03%	5,626	0.06%	8,283	0.09%
California	9,446,334	2,558	0.03%	1,412	0.01%	3,970	0.04%
Connecticut	1,026,050	0	0.00%	222	0.02%	222	0.02%
District of Columbia	158,897	1	0.00%	32	0.02%	33	0.02%
Hawaii	444,511	24	0.01%	98	0.02%	122	0.03%
Massachusetts	1,796,525	19	0.00%	670	0.04%	689	0.04%
New Jersey	2,597,456	90	0.00%	91	0.00%	181	0.01%
Rhode Island	282,856	0	0.00%	92	0.03%	92	0.03%
Utah	919,527	210	0.02%	87	0.01%	297	0.03%



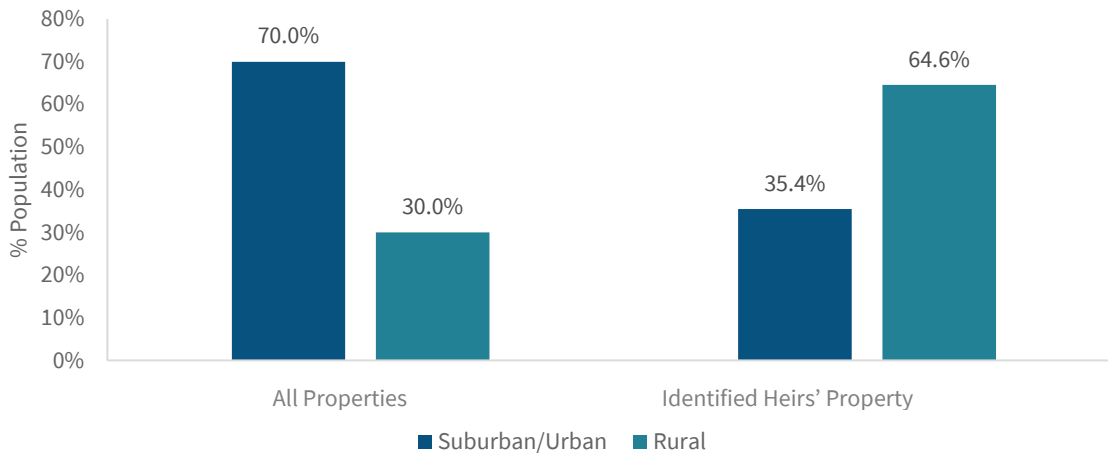
### Identified Heirs' Properties are Disproportionately Located in Rural Census Tracts

Approximately two-thirds of identified heirs' properties are in census tracts identified as rural by 2022 Federal Housing Finance Agency's (FHFA) Duty to Serve definition.<sup>76, 77</sup>

**Table 5. Properties Identified as Heirs' Property by FHFA Duty to Serve Rural Geography Designation**

FHFA Duty to Serve 2022 Rural Designation	Total Properties	Percent of All properties	Identified Heirs' Properties	Percent of Identified Heirs' Properties
Suburban/ Urban	65,919,385	70%	205,788	35.5%
Rural	28,281,585	30%	374,572	64.5%
Total	94,200,970 <sup>2</sup>	100%	580,360	100%

**Figure 1. Properties Identified as Heirs' Property by FHFA Duty to Serve Rural Geography Designation**



### County Demographic Analysis is Based on Prevalence of Heirs' Property

The following analysis categorized the prevalence of heirs' properties by county. The percentages were calculated using the total number of residential properties in each county as recorded by ICE's data at the time of the study. For the purposes of conducting a comparative analysis, the prevalence of heirs' property was categorized into five general classifications:

- **Very low prevalence:** Counties with no identified heirs' property.
- **Low prevalence:** Counties with one or more identified heirs' property, but with a prevalence of less than or equal to 0.3 percent.
- **Moderate prevalence:** Counties with a prevalence of heirs' property greater than 0.3 percent but less than or equal to 0.8 percent.
- **High prevalence:** Counties with a prevalence of heirs' property greater than 0.8 percent but less than or equal to 2.3 percent
- **Very high prevalence:** Counties with a prevalence of heirs' property of more than 2.3 percent.

### Persistent Poverty Counties Have Disproportionately High Rates of Heirs' Property

The issue of poverty is complex, but it is much more than an abstract condition for the over 37 million Americans who face daily struggles with food insecurity, access to health care, and search for basic shelter. Another aspect of poverty in the United States is the persistence of high poverty rates over a long period of time. Identified as "Persistent Poverty Counties," these communities

<sup>2</sup> Due to errors in the census tract Federal Information Processing System (FIPS) Codes for States and Counties, 92 residential properties were not able to be linked with FHFA census tract rural classifications and were omitted from the analysis.



are generally rural, isolated geographically, lack resources and economic opportunities, and suffer from decades of disinvestment and double-digit poverty rates. These areas and populations have had high poverty rates for decades.

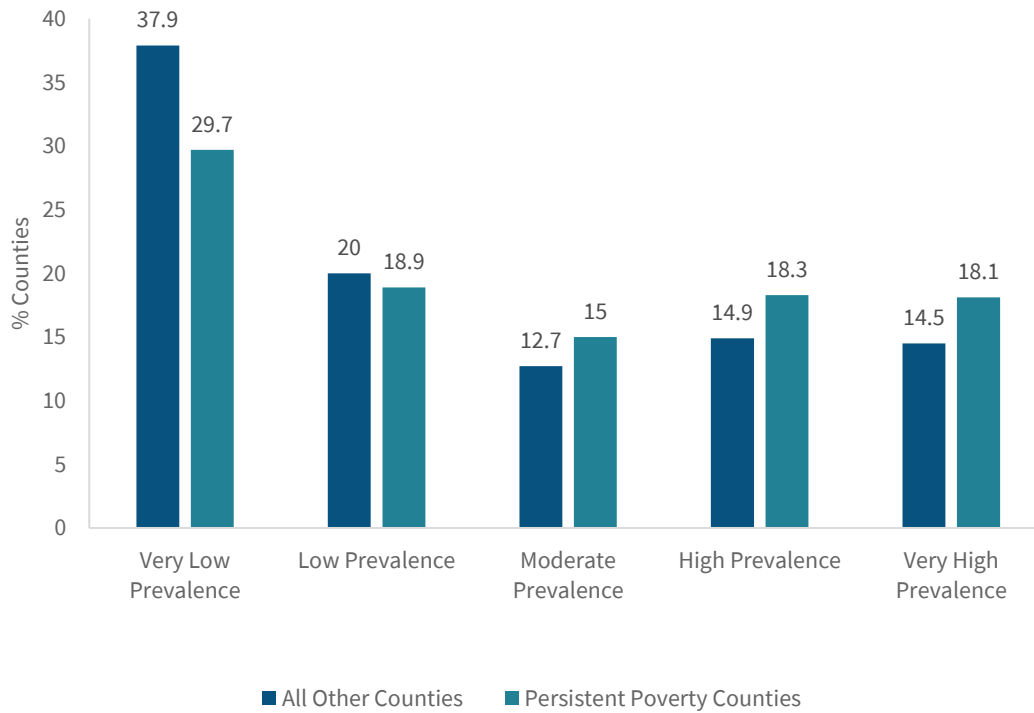
Persistent poverty is defined as an area with a poverty rate of 20 percent or higher over three decades.<sup>78</sup> FHFA classifies 395 counties as experiencing persistent poverty through its Duty to Serve rule.<sup>79</sup>

The prevalence of heirs' property is higher in persistent poverty counties than elsewhere. Given the low overall percentages, further regional analysis would better demonstrate the relationship.

**Table 6. Identified Heirs' Properties in Persistent Poverty Counties**

Classification	All Properties	Estimated Heirs' Property	Percent Heirs' Property
Not Persistent Poverty	89,027,391	517,579	0.6%
Persistent Poverty	5,173,671	62,792	1.2%
Total Properties	94,201,062	580,371	0.6%

**Figures 2. Counties by Identified Heirs' Property and Persistent Poverty Status**







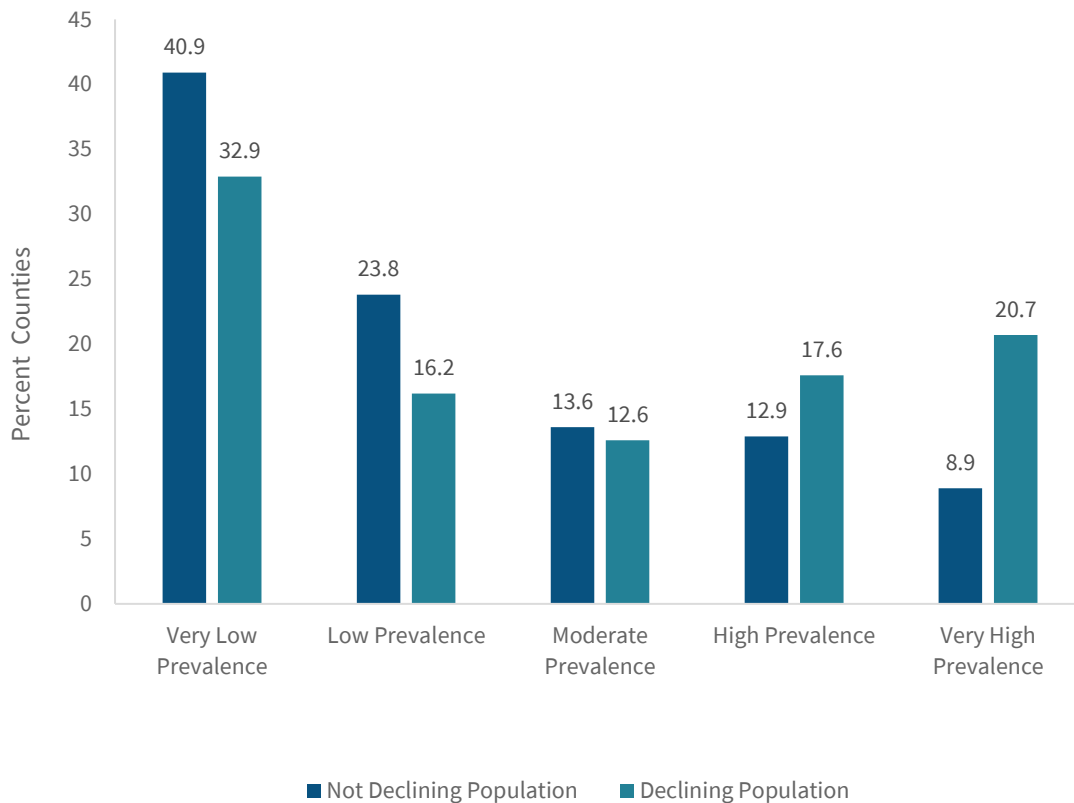
### Counties With Declining Populations Have a Higher Prevalence of Heirs' Properties

The high and very high prevalence of heirs' property categories have a greater proportion of counties with a declining population from 2010 to 2020. The results may vary if conducted on a state or regional level.

**Table 7. Counties by Population Change and Most Likely Heirs' Property**

County Classification	Total Properties	Estimated Heirs' Properties	Percent Identified Heirs' Properties
No Population Decline	77,396,183	303,360	0.4%
Population Decline	16,804,676	277,011	1.6%
Total Properties	94,200,859 <sup>3</sup>	580,371	0.6%

**Figure 3. Counties by Prevalence of Identified Heirs' Property Classification and Population Change 2010-2020**



### County-Level Race and Ethnicity Demographics were Analyzed for Regions with a High Prevalence of Heirs' Property

The issue of heirs' property and other systemic issues have resulted in land theft and land loss for Native American tribes and households, Black residents, and other residents of color throughout history. These systemic issues also result in concentrated issues in low-income White non-Hispanic regions like Appalachia. An analysis of the relationship between heirs' property, race, and land loss over time would also provide additional insights regarding the relationship between the prevalence of heirs' property and race.

Researchers used the current data to assess the racial demographics of counties' populations based on their prevalence of heirs' properties. It is important to note that the review of race and ethnicity was based on the overall demographic characteristics of

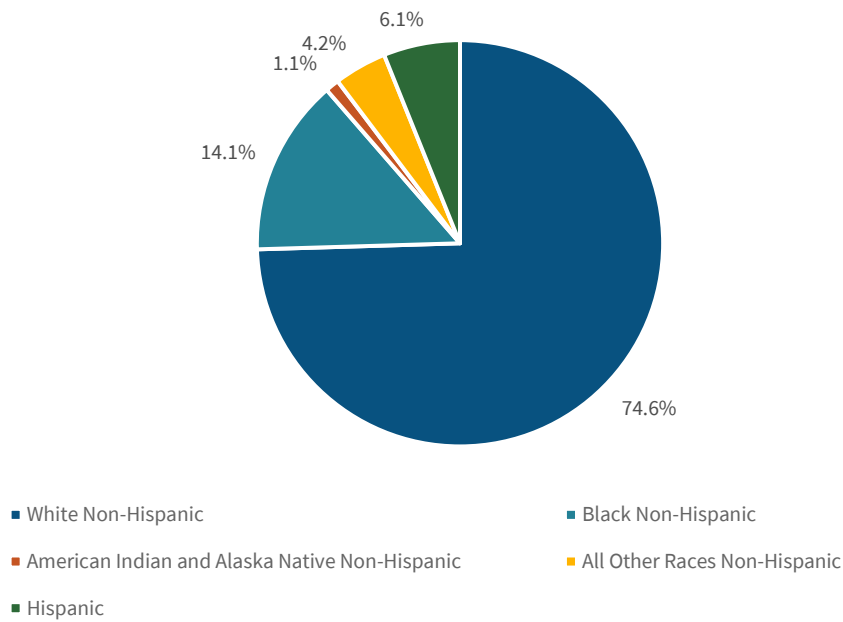
<sup>3</sup> Due to changes in ACS county designations, 204 residential properties located in census tracts with differing census tracts were not included in this analysis.



counties per the U.S. Census data, not the race and ethnicity of the individual owners of the identified heirs' property. Researchers did not have access to the race and ethnicity of residents for parcel-level data.

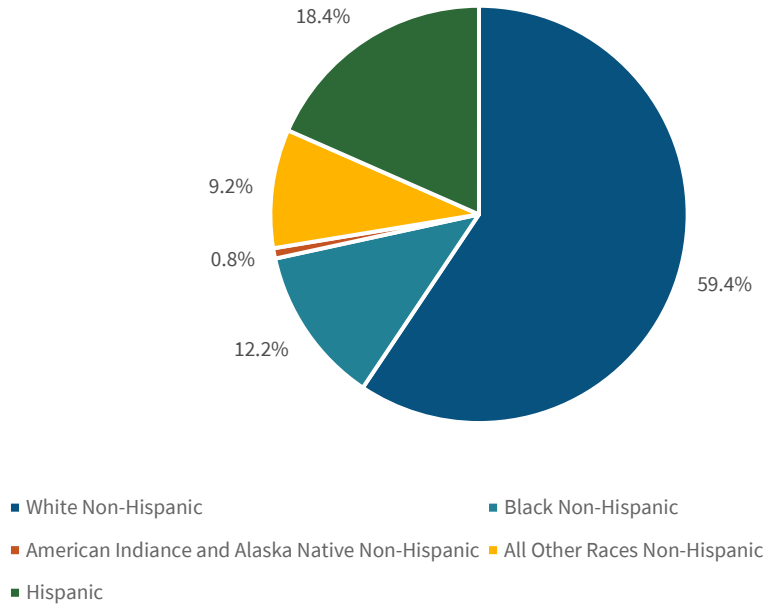
Using county race and ethnicity demographics, the proportions of White non-Hispanic and Black non-Hispanic residents increased as the prevalence of identified heirs' properties increased. High prevalence states, like West Virginia, have a large share of rural White non-Hispanic residents. There was a decrease in the Hispanic population as the prevalence of heirs' properties increased. However, a localized analysis of the race and ethnicity of the individual owners of heirs' property may produce varied results.

**Figure 4. Percent Race/Ethnicity of Counties with a Very High Prevalence of Identified Heirs' Property**





**Figure 5. Percent Race and Ethnicity Demographics of the United States of America**



**Table 8. County Race and Ethnicity and Prevalence of Identified Heirs' Property**

County Heirs Classification	Percent Population White Non-Hispanic	Percent Population Black and/or African American Non-Hispanic	Percent Population American Indian and/or Alaska Native Non-Hispanic	Percent Population All Other Races Non-Hispanic	Percent Population Hispanic	Total
Very Low Prevalence	53.1	10.8	0.5	11	24.5	100
Low Prevalence	61.8	13.3	0.5	7.7	16.7	100
Moderate Prevalence	69.4	13.1	1.2	5.9	10.3	100
High Prevalence	71.1	12.2	0.8	5.2	10.6	100
Very High Prevalence	74.6	14.1	1.1	4.2	6.1	100

**The Estimated Assessed Value of Identified Heirs' Properties is \$32.3 Billion Across 44 States and the District of Columbia**

Reviewing total assessed property values allows for a better understanding of the economic scope or footprint of heirs' properties. The total assessed values represent the properties in their current state. In some cases, the total assessed value is a misrepresentation of the inaccessible wealth and equity associated with the identified properties. While it is beyond the scope of this study to estimate the true value of the identified properties, a review of the tax assessment provides a minimum baseline of the equity currently inaccessible by heirs' property owners and communities.

The total assessed value of all identified heirs' properties in the 44 states included in this analysis and the District of Columbia totals \$32.3 billion. This estimate is undoubtedly less than the true scope of wealth tied up in heirs' properties across the country. The research estimate is an undercount in each state included, and six states, including states with high property values like New York, are not included in this analysis due to data issues. In addition, some of the counties with identified properties, including Philadelphia, did not have total assessed values reported in the data source.



The states with the highest total assessed value for identified heirs' properties include those with very hot housing markets and increasing property values, such as Florida and North Carolina. Some states with lower property values are included in the top ten due to the high prevalence of heirs' properties there, including Alabama and West Virginia.

**Table 9. Total Assessed Heirs' Property Value**

State	Total Assessed Value for All Identified Heirs' Property
Alabama	\$994,430,000
Alaska	\$102,420,000
Arizona	\$87,060,000
Arkansas	\$24,000,000
California	\$831,980,000
Colorado	\$136,580,000
Connecticut	\$48,380,000
Delaware	\$26,360,000
District of Columbia	\$9,500,000
Florida	\$7,222,630,000
Georgia	\$408,900,000
Hawaii	\$91,700,000
Idaho	\$143,810,000
Illinois	\$88,620,000
Indiana	\$1,749,070,000
Iowa	\$1,023,670,000
Kentucky	\$1,295,870,000
Louisiana	\$40,500,000
Maine	\$54,950,000
Massachusetts	\$158,580,000
Michigan	\$289,280,000
Minnesota	\$1,103,490,000
Mississippi	\$135,470,000
Missouri	\$474,630,000
Montana	\$1,209,060,000
Nebraska	\$448,490,000
Nevada	\$132,730,000



**Table 9 Cont. Total Assessed Heirs' Property Value by State**

<b>State</b>	<b>Total Assessed Value for All Identified Heirs' Property</b>
New Hampshire	\$134,850,000
New Jersey	\$47,380,000
New Mexico	\$28,740,000
North Carolina	\$5,526,860,000
North Dakota	\$18,430,000
Ohio	\$312,620,000
Oklahoma	\$39,110,000
Oregon	\$318,000,000
Pennsylvania	\$895,730,000
Rhode Island	\$16,080,000
South Carolina	\$57,580,000
South Dakota	\$138,630,000
Tennessee	\$488,870,000
Texas	\$823,870,000
Utah	\$73,320,000
Virginia	\$2,330,910,000
Washington	\$428,560,000
West Virginia	\$2,178,660,000



# Discussion



Photo: Jennifer Emerling – There is more Work to Be Done



# Discussion

## Characteristics Aligned with Heirs' Properties Vary by Region

In the southeast, where most heirs' property research has been focused, clusters of properties lacking recent sales, full tax exemptions, or mortgages were considered to be at risk of having title issues.

Researchers reached out to a small number of selected county assessors to request their insight regarding this trend. Informed by discussions with the assessors and an analysis of Home Mortgage Disclosure Act (HMDA) data, HAC recognized that regions with low rates of new mortgage loans, low quality housing stock, or high proportions of residents remaining in their homes for a long time with minimal sales skewed the data.

The lack of a mortgage is one of the filters for the properties identified as being at risk of being in heirship status. One thing to note is that in many rural areas, for example the rural southeast and Great Plains, the limited volume of mortgage lending may be more reflective of the general housing market and community dynamics than it is of heirs' property prevalence or risk. This means the indicator may overstate at-risk heirs' properties in certain rural areas. The lack of a mortgage is, however, a condition that is closely associated with heirs' property, and thus, it must be considered in assessing risk. Efforts to identify additional qualifiers could refine this measure.

Properties with no reported sale were assumed to have not been sold since construction. For properties with no reported sale, the methodology filtered for properties with a reported year built of 30 years or older. The lack of new construction in rural and economically distressed areas may overstate heirs' property risk when, as is the case with mortgage lending activity, it primarily reflects market conditions, not property title problems.

The research methodology also used poor housing quality and condition as an indicator that a property may be at risk of being heirs' property. According to the Joint Center for Housing Studies of Harvard University, 2.8 million properties were classified as moderately or severely inadequate in 2021.<sup>80</sup> Research suggests that using HUD's definition of moderately or severely inadequate excludes properties that, though classified as adequate, are in poor condition. The 3.4 percent of owner-occupied housing in the country considered moderately or severely inadequate will affect the efficacy of housing quality as a measure of heirship.<sup>81</sup> The research methodology uses poor housing quality and condition as one of the indicators of heirs' property. In regions with a high prevalence of poor housing quality, the measure may not be as reliable in isolating heirs' property.

In some regions, properties with no recent sale, no mortgage, and low housing quality are the norm, not the anomaly. The research methodology eliminated properties that had characteristics aligned with having a clear title. After eliminating them, researchers labeled the remaining properties as at risk of being in heirship status. In some regions, this elimination process resulted in identifying most properties in the region instead of solely including anomalous properties at risk of being heirs' property. Inversely, there were states with a high prevalence of properties most likely to be in heirship, but significantly lower rates of properties in the at risk of heirship category.

Researchers, in collaboration with Fannie Mae Enterprise Data Team, sought additional data to refine the estimates. One variable used in prior research is whether the mailing address for the owner matched the address of the property. Qualitative research suggests that in some cases, the owners of an heirs' property may not reside in the property. In the available data, however, 94.5 percent of properties were missing zip codes. As a result, properties with differing zip codes comprised less than 0.1 percent of all residential properties. Using addresses was not an option for this research. Further localized research is needed in these places to include regional specific characteristics of properties in heirship forms of ownership.

**Table 10. Owner Mailing Zip Codes and Property Zip Codes for All Residential Properties**

Zip Code Category	Total	Percentage of All Residential Properties
All Zip Codes Missing	276,909	0.1%
All Zip Codes Match	49,733,174	94.5%
No Zip Codes Match	32,030	0%





### **The Research Team had Access to Robust Data and a Productive Collaboration with Fannie Mae’s Enterprise Data Team**

Conducting analysis on tax assessment and deed data provided valuable insights on a property level, but also included variability in the data and reporting. Tax assessment and deed data collection occurs on the county level and is compiled and aggregated by ICE. Because the data was collected on a county level, there were variations in data across counties and states. Historically, land title and assessment data was not collected electronically.<sup>82</sup> In some counties, older records are still held in physical copies even if the current assessment system is electronic. In some cases, there were variations at the individual assessor recording level within counties. HAC, in collaboration with Fannie Mae’s Enterprise Data Team, determined which variables were reliable for a national analysis.

### **The Estimates of Heirs’ Properties for This Study are Conservative**

Due to the variation in tax assessment data collection in each county, the research employed indicators in the methodology that were most common across the nation. One goal of this research is to create a reproducible methodology that municipalities can use in their regions, with the addition of unique regional indicators for heirs’ properties, deceased owners, and transfer of ownership without probate. The results of this research demonstrate relative prevalence and provide estimates as a baseline for counties to add unique identifiers to locate additional properties. Additionally, prior research demonstrates that heirs’ properties may be vacant land and agricultural property. The data used in this research includes only residential properties and does not include parcels that were zoned as residential but were vacant at the time of the last assessment.

The research team had access to a robust national data set but, due to differences in data collection and availability across localities, missing data also produced more conservative results. An analysis of the data used to identify properties at risk of being in heirship demonstrated the magnitude of missing data. Data for the variable *building quality* were missing for 56 percent of properties, and *building condition* were also missing for 56 percent of properties. Latest sale data were missing for more than one-third of properties and, although not having a sale recorded was used as a possible indication of heirship, the data did not allow distinction between missing data or lack of a recent sale.

### **The Methodology for this Research Focused Primarily on Property Tax Assessment Data**

ICE Mortgage Technology, Inc. and the U.S. Census differ in their data collection methodology and classifications for properties per county and census tract. To align the data for analysis, HAC relied on ICE’s data and property counts. The ICE data set used for this analysis was updated in October 2022. The HAC findings are a present snapshot of the prevalence of heirs’ property. The Census Bureau’s American Community Survey (ACS) 2021 five-year data were used for a demographic analysis of the counties. Given the fluidity of properties with title issues, the results presented may vary based on the time of collection of the data.

### **Variation in Data Collection Impacts Comparative Studies**

The variation in tax assessment data has been noted in prior research, and in some cases, led to researchers selecting regions of foci based on the availability of data. Additionally, other researchers have noted that the variability of assessment data across counties and states led to region-specific studies due to the inapplicability of the methodology across multiple regions. HAC aimed to create a methodology to demonstrate the relative prevalence of heirs’ properties across all counties in the country. Due to the national scale of this research and approach to the methodology, there are minimal opportunities for a comparative analysis of results to prior research.

### **Differences in Methodological Approaches and Data Access Yield Differing Results Across Research Studies**

Heirs’ property is a fluid issue that is demonstrated and documented differently based on the locality. Researchers engaged in a comparative analysis of results with the consideration that the date the research was conducted, the methodology used, and the data source all impact the estimates. Additionally, researchers conducted a national analysis, which differs from prior localized research. Researchers focused on prior studies with some similarities in methodologies and one study with a different methodology.

Dyer, Bailey, and Tran (2008) identified parcels in heirship status in Macon County, Alabama, by identifying indicators of a deceased owner on record using local property tax records. The initial analysis identified 2,313 (9.6 percent) accounts potentially in heirship. Filtering for active accounts resulted in a final estimate of 1,516 parcels likely to be in heirship, comprising 4.1 percent of the acreage in the county.<sup>83</sup> HAC identified properties, in contrast to accounts and acreage. HAC’s estimate for Macon County for both categories was 7.4 percent of all properties. A total of 232 properties were identified, which is not the same measure as tax accounts.

Johnson Gaither (2017) estimated heirs’ properties in Maverick County, Texas, using indicators of “multiple owners,” “undivided interest,” and percentages or fractions of interest in the owner’s name of a regional tax database. Johnson Gaither identified 186



(0.7 percent) heirs' property parcels in the county.<sup>84</sup> HAC, using a similar but more conservative methodology, estimated one property.

Similarly, Stein and Carpenter, with the Atlanta Federal Reserve Bank, used a state tax roll, which included vacant land, and identified 29,389 (9.2 percent) residential parcels likely to be in heirship status in Duval County, Florida.<sup>85</sup> HAC's methodology was more conservative with the addition of the vesting code filter and removal of "estate" from the identification process. In some regions, "estate" is an indication of heirship, but that is not a universal assessment practice. In some localities, estate signifies a form of estate planning and not heirship status. Additionally, the national data set did not include vacant properties. HAC, using a similar methodology, identified 723 (0.2 percent) heirs' properties in Duval County in the most likely category. The total combined estimate for Duval County was 2,720 (0.8 percent) properties. As demonstrated in the table below, there were significant differences in the results when using similar methodologies but differing data – a local data or national.

Pew Charitable Trusts used death records to identify 14,001 heirs' properties, which was 2 percent of properties in Philadelphia County, Pennsylvania.<sup>86</sup> When comparing HAC's results of 619 (0.1 percent) properties, a few data points stood out. When assessing the building quality, zero properties were assessed below "C-" rating in the county. For housing condition, only 2.8 percent of properties in Philadelphia had a reported housing quality or condition of poor or unsound. The University of Pennsylvania concluded that it is difficult to estimate the housing quality in Philadelphia using the American Housing Survey. They used the City of Philadelphia's Basic Systems Repair program to conclude that the low end of the range of properties in poor condition is anywhere from 11,000 to over 40,000 properties.<sup>87</sup> The City of Philadelphia estimates there are 40,000 vacant properties, of which 74 percent are privately owned.<sup>88</sup> Vacant properties were not included in the HAC's estimation model. The variation in results between the Pew research study may be attributed to assessment processes and data reporting. Pew research did not use property characteristics to identify properties. As discussed previously in the report, HAC's estimates were very sensitive to housing quality and condition. For the county of Philadelphia, the housing quality and condition filter removed 97.3 percent of properties. However, the reported data does not align with other information about the condition of the housing stock in Philadelphia.

Dobbs and Johnson Gaither (2023) used data from LightBox to estimate the prevalence of heirs' property across the country<sup>89</sup>. By using indicators in the owners' name, researchers identified 444,172 heirs' parcels, in comparison to HAC's estimate of 508,371 heirs' properties. Dobbs and Johnson Gaither estimated parcels and used LightBox data from November 2021. HAC estimated properties and used ICE data from November 2022. While some of the terms used in the methodology were similar, Dobbs and Johnson Gaither used some identifiers that HAC did not. HAC also used property characteristics to identify heirs' property, which differs from Dobbs and Johnson Gaither's methodology.<sup>90</sup>

**Table 11. Comparison of National Estimates of Heirs' Property**

Research Study	Total Properties	Estimated Heirs' Property	Percent
Housing Assistance Council	130,802,619	508,371	0.50%
Research Study	Total Parcels	Estimated Heirs' Parcel	Percent
Dobbs and Johnson Gaither	155,752,311	444,172	0.30%

Dobbs and Johnson Gaither presented a comparison of their estimates to the Pew Charitable Trusts and the University of Pennsylvania's research in Philadelphia, which identified 10,407 properties. Dobbs and Johnson Gaither identified 471 heirs' parcels in Philadelphia and 4,801 heirs' parcels in the state of Pennsylvania. Dobbs and Johnson Gaither argue that notation on the county level may not consistently be transferred when procured by large national data agencies. Additionally, LightBox data are primarily used for identifying forest parcels, not ownership of properties.<sup>91</sup> Thomson, Bailey, Dobbs, and Johnson Gaither compared their 2023 research methodologies and findings across the two studies.<sup>92</sup> Researchers concluded that differences in data sources and methodologies produce varied results. Using researchers' data and comparison results, HAC added their findings for the associated states for comparison. The total for the eleven states varies from 237,540 to 496,994 across the research studies. For ten states, Thomson and Bailey's estimates were the highest. For West Virginia, HAC had the highest estimate. The estimates vary based by state due to the differences in methodology and the data sources. Thomson, Bailey, Dobbs, and Johnson concluded that despite the variation in estimates, it is clear that heirs' property is a significant issue, affecting millions of dollars in property equity.



**Table 12. Comparison of Identified Heirs' Property Estimates**

	Thomson and Bailey	Dobbs and Johnson Gaither	Housing Assistance Council
State	Total Identified Parcel	Total Identified Parcel	Total Identified Properties
Alabama	41,218	18,132	74,724
Florida	62,012	27,743	45,749
Georgia	39,430	22,779	15,224
Kentucky	21,482	21,129	16,851
Louisiana	34,197	23,185	5,210
Mississippi	45,574	30,811	18,092
North Carolina	88,339	39,162	72,926
South Carolina	41,584	16,779	16,973
Tennessee	43,512	5,607	15,451
Virginia	55,404	14,333	20,594
West Virginia	24,242	17,880	70,762
Total	496,994	237,540	372,556

Comparisons to prior localized research highlight the variation in heirs' property estimates depending on the data source, methodology, date of research, and location of research. Despite many similarities in the methodology, many of the estimates still vary based on data availability and location of the research.

**The Relationship Between Race/Ethnicity and Heirs' Property is Dynamic and Requires Additional Local Analysis**

The pioneering research on heirs' property was conducted in 1980 and focused on Black-owned parcels.<sup>93</sup> The findings reported that approximately 27 percent of Black-owned parcels were heirs' property. While systemic racism undoubtedly shaped property rights and systems of land retention in the United States, low-income households of all races and ethnicities were and still are impacted by systemic disinvestment and face challenges with heirs' property. Research on predominantly White non-Hispanic regions, like Appalachia, presents the connection between systemically marginalized and low-income regions and the prevalence of heirs' property.<sup>94</sup>

Given the nature of the data set, presenting properties as recorded in the assessment in November 2022, Black-owned land that was lost due to systemic violence, intimidation, title issues, predation by developers, and other means would not be represented in this data set.<sup>95</sup> Portions of the methodology used in this research identify properties that were built and did not have a recent sale within the last 30 years. Research reports between 1969 and 2001, an estimated 80 percent of Black-owned land was lost.<sup>96</sup>

Some Black communities once comprised of Black landowners are now owned by municipalities and private businesses. For example, Seneca Village in New York, taken via eminent domain, is now Central Park, owned by New York City.<sup>97</sup> Many Black landowners who owned hundreds of acres of land were forced out of Forsyth County, Georgia, due to racial violence. The property was declared legally abandoned, and White residents took over the land.<sup>98</sup> The displacement of Black residents due to violence was not unique to Forsyth County, as evident by the Great Migration.<sup>99</sup> Today, Black landowners are still being pressured to relocate from land that has been in their families for generations. For example, the continued development of Hilton Head, Myrtle Beach, and other coastal resorts in South Carolina were built on formerly Gullah/Geechee land. Today, landowners in the Gullah/Geechee Cultural Heritage Corridor and other coastal regions of South Carolina still face pressure and the threat of land theft due to the expansion of the coastal resorts.<sup>100, 101, 102</sup>

Land that has been lost due to systemic racism and title issues would not be captured in this data set. The analysis of race and ethnicity in counties with a high prevalence of heirs' property in this research was impacted by using current data that represents property ownership as of November 2022, and conducting an analysis using county-level demographics due to not having access to individual owners' race and ethnicity data. An analysis of the relationship between heirs' property, race, and land loss would



also provide additional insights regarding the relationship between heirs' property and race. Additionally, research that analyzes individual identified heirs' property owners' race and ethnicity would provide a more detailed perspective on the relationship between heirs' property and race and ethnicity.

### **Some Properties with Indicators of a Transfer of Ownership upon an Owner's Death also have Property Characteristics Aligned with a Lack of Clear Title**

Researchers used methodologies to estimate two classifications of heirs' property. First, researchers conducted an analysis to determine how many properties had indications of a transfer of ownership upon the owner's death without probate. This classification was meant to capture properties that are in municipalities that use this assessment procedure. Given the dynamic nature of the creation of heirs' property, this category was also used to identify properties that may have been sold recently, have tax exemptions and mortgages, and are in average to good condition, yet have tangled titles and classify as an heirs' property.

Prior qualitative research demonstrates that the use of this nomenclature in the owners' name is not standardized. To mitigate this issue, HAC implemented a second methodology to capture properties that would not be captured in the most likely methodology. The at risk methodology was used to capture properties that fit the characteristics of a property with title issues.

The two classifications were intended to capture properties with different characteristics and in municipalities with varied assessment practices. However, of the 88,834 properties with an indication of a transfer of ownership upon the owner's death without probate, 4,760 also had property characteristics aligned with a lack of clear title. Further localized research in municipalities that use both assessment practices would aid in providing insights into the properties that have all characteristics.

### **Further Validation is Needed Using Ground Truthing Methodology**

HAC engaged in a thorough analysis and triangulation of the data to produce the relative prevalence of heirs' property across the country. Given the variation in data collection and availability, further validation of the findings by locality is needed. Unique nuances in data recordation and characteristics of properties without a title may present differently depending on the municipality. Data validation may be conducted using ground truthing methods. Ground truthing is the process of confirming the accuracy of data analysis with ground level, local data.<sup>103</sup> Ground truthing and local validation can improve the research by verifying data to address discrepancies, and increasing confidence in the results.<sup>104</sup> If the municipality has data regarding properties confirmed to be in heirship status, using logistic regression to analyze the predictive strength of owner and property characteristics would further refine the estimation process.





# Practitioner Recommendations and Strategies





## Practitioner Recommendations and Strategies

Mitigation for the issue of heirs' property takes collaborative and multifaceted approaches to assist residents without clear titles and prevent future properties from resulting in clouded titles. The resolutions include increased data availability, research, education, policy changes, direct support, legal aid, and financial support. This section presents a sample of best practices, scalable solutions, and technical assistance for addressing heirs' property issues.

### HAC Conducted Qualitative Research in Partnership with Practitioners

HAC conducted qualitative research to highlight best practices and lessons learned from four organizations engaged in addressing the issue of heirs' property. The four organizations were Auburn University's Rural Studio, the Federation of Southern Cooperatives, the Florida Housing Coalition, and the Louisiana Appleseed Center for Law and Justice. These organizations engaged in interviews and shared research publications regarding their approaches to addressing the issue of heirs' property and suggestions for scalable solutions.

### Uniform and Accessible Data are Needed to Accurately Scope the Issue of Heirs' Properties

Research aiming to scale the prevalence of heirs' property to date has been conservative due to data availability. The variability in data collection and reporting processes does not allow for a true scope of the prevalence of heirs' properties across the country. In some localities, like Louisiana, decentralized recordation systems make accessing data challenging.<sup>105</sup> Proactively identifying heirs' properties serves as a mitigation strategy and will be strengthened by partnerships between federal, state, and local entities. Capacity, funding, and access to parcel-level tax roll data will support efforts to identify, map, and track heirs' properties across the country.<sup>106, 107</sup>

Uniformity in property data would not only enhance heirs' property research but also highlight other housing condition issues in the nation. Regardless of the data source, every study on heirs' property reports missing data inhibits the ability to truly scope the prevalence of heirs' property. Support is needed to continue to efforts of retrieving county-level records and connecting with property owners to identify heirs' properties across the country.<sup>108</sup>

### Homeowners Need Access to Necessary Financial Products that are Inclusive of All Forms of Homeownership.

Heirs' property residents and owners deserve access to wealth acquisition and land retention opportunities, comparable to other home and property owners. There are benefits associated with intentional familial land control structures, including defense against homelessness and opportunities for strengthened kinship. There are also vulnerabilities associated with tenancy in common ownership, and barriers to accessing financial and federal systems.

Including heirs' property owners in housing funding programs and policies, such as subsidized housing programs, would alleviate some of the barriers faced by residents. Policy changes regarding proof of ownership for housing assistance programs and the creation of policies specifically for assisting and addressing heirs' properties are also essential. Heirs' property owners also need access to insurance, post-disaster recovery options, and tax exemptions.<sup>109</sup> FEMA director Deanna Criswell testified during a congressional hearing in June 2022 that FEMA's policy change to accept alternate forms of documentation to prove land control resulted in the approval of \$350 million in assistance to homeowners and renters that would previously have been denied.<sup>110</sup> It is evident that the inclusion of broader form of homeownership has major impacts for homeowners and communities.

Financial institutions could help mitigate the issue of heirs' properties by providing funding options for heirs' property owners. The Uniform Partition of Heirs Property Act's five pillars aim to mitigate the threat of land loss to heirs' property owners. The UHPA has been adopted in 23 states. The act aims to provide increased protection, rights, and advance notice of heirs in the event of a partial sale.<sup>111</sup> The UHPA includes a right to buy-out for heirs' owners who desire to retain the property.<sup>112</sup> However, for low-income families, the financial capital needed for buy-out is often unattainable. Financial institutions could create a financial product which supports heirs' property owners who desire to purchase the entirety of the property from other partial owners.

Financial products and support for heirs' property owners, which works within their chosen familial land control is also needed. Rural Studio does an example of this work.<sup>113</sup> Using a philanthropic model, residents in need of assistance are not evaluated using eligibility criteria, including proof of ownership. Rural Studio works within familial land control agreements and community land control agreements. Families may use their property as family settlements, with multiple housing units on the property, or may divide the property based on mutually agreed upon landmarks.<sup>114</sup> Through training and technical assistance, financial entities, local nonprofits, and intermediaries can learn tools to implement a similar financial model to support heirs' property owners.<sup>115</sup>





### **Mediation Services, Legal Aid, and Education Resolve and Prevent Title Issues**

Attorneys and other practitioners call for increased access to mediation, legal aid, and education for households. Preventing the creation of future heirs' properties through legal assistance and education can reduce the impact of title issues for residents. Education can be provided at stages throughout the home purchasing process, including through real estate closings, homeowner counseling, homeowner assistance programs, and community programs.<sup>116</sup> Mortgage lenders could provide education to new homeowners regarding the importance of estate planning and steps to ensure their property does not become heirs' property.<sup>117</sup> County property appraisers, housing counselors, and real estate agents also must be educated on the importance of clear title and estate planning to educate clients and homeowners.<sup>118</sup>

The expansion of legal aid services to provide homeowners with the opportunity to complete estate planning would also reduce the prevalence of future heirs' properties by removing cost barriers. Direct aid like the Federation of Southern Cooperatives' heirs' bootcamp, which provides free aid directly to impacted owners free of cost, helps heirs' property owners clear their title.<sup>119</sup> Scaling the model would require increased funding for direct assistance and partnerships with law schools for training opportunities and fellowships. The Federation created a certified mediation program in partnership with the universities to allow more Black lawyers access to mediation training. The heirs' bootcamp, partnerships with universities, and certified mediation training programs are scalable with the support of additional funding. Because clearing titles is a legal process, access to legal aid for heirs' property owners is essential to addressing the issue.<sup>120</sup>

While legal aid is essential, finances are also a barrier which prevents some heirs' property owners from completing the process of clearing title. The courts have a process available for low-income petitioners to file a lawsuit or appeal and proceed to court without having to pay the court fees.<sup>121, 122</sup> IFP, *in forma pauperis*, allows petitioners who are unable to afford court fees to file a lawsuit or appeal and if the petitioner wins, the opposing party is responsible for the costs.<sup>123</sup> IFP is not extended to petitioners in need of title resolution, however, given there is no adverse party. Creating a process which allows low-income heirs' property owners to proceed through the legal process, with an option for financial support, would remove one cost barrier in the process of clearing a title.<sup>124</sup>

There are additional cost barriers including the cost for mediation, recordation costs, fees, and overall costs of legal aid. Financial support for the costs associated with clearing a title, in addition to the expansion of civil legal aid and opportunities to mitigate costs through resolving family issues outside of courts, will remove some of the barriers heirs' property owners face in the process of clearing a title.<sup>125</sup>

Mediation strategies, financial support, and opportunities for scalable solutions must be accompanied by continued advocacy for changes in policy. Continued advocacy for changes in accepted documentation for proof of land control is essential to addressing the issue of heirs' property. Additionally, state policymakers must be informed about the issues of heirs' properties and mitigation strategies which can be implemented in their states.<sup>126</sup>

### **Partnership and Collaboration are Needed to Address the Issues Associated with Heirs' Property**

Partnership and collaboration are central to resolving the systemic issues that affect heirs' property owners. Intermediaries for federal programs could serve as the connection between federal programs and funding, and local nonprofits can connect with residents and implement solutions for heirs' properties at the household level. Local nonprofits can partner with local community service workers and daily delivery personnel who are aware of what is occurring in multiple households. The input of the community members can be used for referral services and education for the community.<sup>127</sup>

The partnership model between the federal government, intermediaries, and local nonprofits through specific programs for assisting heirs' property owners should include technical assistance for the nonprofits to learn about the issue of heirs' property and mitigation strategies.<sup>128</sup> Organizations could engage in a technical assistance model to offer on-the-ground training to housing providers. Local nonprofits could learn about which housing products can be offered to heirs' property owners and create successful partnerships with organizations that provide wraparound services.<sup>129</sup>

Heirs' property has been created through generations of systemic racism and exclusion. The approaches to addressing the issues vary across fields, states, and even individual households. Partnership, advocacy, education, and financial support will support the efforts to prevent and mitigate issues associated with heirs' properties. Financial support, policy change, legal aid, and collaboration can mitigate the vulnerabilities associated with tenancy in common ownership, and the barriers in accessing financial and federal systems. Through continued research, community education, education of state policy makers, housing practitioners, and professionals in the housing and finance fields, future heirs' properties can be prevented. The solutions to address the issue of heirs' property will require an investment of time, resources, and funding from financial, federal, state, and local entities. The financial and housing system has successfully built wealth for many Americans, and with policy changes,



federal funding, and community-level strategy implementations, wealth can be built for communities that have systemically been excluded, including owners of heirs' property.



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