

Title

# How the title industry is addressing the negative effects of heirs' property

Understanding the risks of heirs' property and how to avoid them is essential to build generational wealth through inherited property

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Homeownership is the single greatest contributor to household wealth for American families. From 2010 to 2020, the value of owner-occupied housing in 917 metropolitan or micropolitan metro areas increased by \$8.2 trillion.

We know homeownership is a significant contributor to generational wealth. A home that is inherited from a family member without a will, also known as heirs' property, can present serious challenges to families if new ownership has not been updated in land records.

Given the numerous risks and challenges associated with heirs' property and the higher incidence in low- to moderate-income communities, the **American Land Title Association** (ALTA) is committed to expanding awareness of heirs' property and collaborating with industry and government partners to address this often-overlooked hurdle to wealth building.

## What is heirs' property?

Typically, when a person passes away, it is customary for a will to specify who will inherit the property. However, wills and estate planning can be costly, and many Americans do not have the resources to legally account for their property before they pass away. According to a 2023 survey by Caring.com, only 34% of Americans have an estate plan.

If a person passes away without an end-of-life document, a property often becomes heirs' property, meaning that it is passed informally to the next generation without a proper title documenting ownership.

Without a new recorded deed, surviving relatives may struggle to make important decisions or take actions related to the home, such as financing or transferring the property or accessing emergency aid from the government or nonprofits.

And the passage of time only exacerbates the heirs' property problem as the number of people claiming ownership may grow exponentially.

The original owner may have multiple heirs, each of whom may have multiple heirs. Heirs' property also disproportionately impacts families of color, as they often have fewer resources to establish estate planning, therefore exacerbating the generational wealth gap in the United States.

Even if an heir occupies and manages the home, they may sustain economic harm without full ownership rights.

For example, in some states, one heir may have the ability to force the sale of the property without the consent of all parties, even if other heirs occupy the property or use it for agricultural or commercial purposes. Heirs also may not be able to reap the economic benefits of homeownership and build generational wealth if they cannot finance and transfer the property.

Besides not having the ability to monetize the property, heirs' property holders can also lose economic value in other ways. In some states, heirs' property holders are ineligible for homestead tax credits, even if they occupy the property and pay property taxes, leading to the overpayment of taxes. In the event of an emergency or natural disaster, heirs may not receive financial assistance for damages to the property without proper proof of ownership.

Finally, in the case of multiple undocumented heirs, there is a risk of tax sale if the parties disagree on who is responsible for taxes and the obligation is not set out legally.

## **How is the title industry helping to address heirs' property?**

At ALTA, we believe expanding awareness of heirs' property is the first step to addressing the issue. ALTA is committed to educating consumers about heirs' property and encourages homeowners to always plan for their estates if they have the means to do so.

For heirs' property holders, ALTA recommends several ways to establish legal property ownership after the fact. If all heirs agree to ownership, completion of paperwork and a court proceeding can allow new heirs to become the owner of record.

Even if it is not possible to reach everyone, an heir can petition the court to obtain a non-appealable, final judgment on property ownership by quiet title, determination of heirship or partition statute, depending on state law.

ALTA is also seeking to mitigate the effects of heirs' property through legislative action. ALTA's State Legislative and Regulatory Action Committee (SLRAC) has prioritized the issue of heirs' property and meets regularly to discuss ways that this problem can be remedied legislatively and through title professional tools and resources.

For example, ALTA has been supportive of the [Housing Survivors of Major Disasters Act](#) in Congress to help heirs access Federal Emergency Management Agency (FEMA) assistance during an emergency.

ALTA has also endorsed the [Uniform Partition of Heirs Property Act](#) (UPHPA), which aims to preserve family generational wealth by ensuring that heirs receive fair market value when a forced [home sale](#) occurs and create a cost-effective, uniform process to establish ownership rights. The UPHPA has been signed into law in [23 states](#) and introduced in seven others.

Understanding the risks of heirs' property and how to avoid them is essential for Americans seeking to build generational wealth through inherited property. The title industry is committed to promoting educational resources and advocating for legislative efforts aimed at reducing the number of heirs' property holders across the country.

*Diane Tomb is CEO of the American Land Title Association.*

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