

## Uniform Partition of Heirs Property Act (UPHPA) Legislation

### Summary

The Uniform Partition of Heirs Property Act (UPHPA) helps preserve family wealth passed to the next generation in the form of real property. If a landowner dies without making a will, the real estate passes to the landowner's heirs as tenants-in-common. Inheriting land in this manner could potentially leave any cotenant vulnerable by forcing a partition or dispossession of their land through forced sale. This is an issue that is primarily (but not exclusively) faced by middle to low income families who own real property. For many of these families, real estate is their single most valuable asset.

### Intent

- Prioritizes family members who are part of a common ownership group (tenants in common) and want to maintain ownership when another cotenant has petitioned a court for partition of sale.
- Balances the interests of all owners by preserving the right of a cotenant to sell his or her interest in inherited real estate.
- Prevents forced sale of property at a price below fair market value.

### Major Reform

1. **Buyout of Cotenant That Petitioned Court for Partition by Sale** - if a cotenant petitions a court to order a partition sale, cotenants not seeking a sale will be provided the opportunity to buy out the cotenant at a price that represents the value of the petitioning cotenant's ownership interest.
2. **Bolstering Preference for Partition in Kind** – the court will fairly examine both the economic and non-economic factors before determining whether or not to order a partition in kind or a partition by sale.
  - a. Does the property have sentimental, cultural, or historic value?
  - b. Would one or more cotenants be rendered homeless if a court ordered the property sold?
  - c. Does the property as a whole make it more valuable than the aggregate values of the parcels that would result from a potential partition in kind?
3. **Revamped Sales Procedure Designed to Yield Higher Sales Prices** - ensure that the sales procedures result in the heirs' property owners maintaining as much of the wealth as possible associated with the property.
  - a. The preferred sale procedure is an "open market sale" where the court appoints a disinterested real estate broker to list the property for sale for at least its value as determined by the court and to market the property using commercially reasonable practices.
    - i. This type of sales procedure stands in sharp contrast to the type of auction sales typically used for partition sales.

States that have enacted legislation: Alabama, Arkansas, Connecticut, Florida, Georgia, Hawaii, Illinois, Iowa, Mississippi, Missouri, Montana, Nevada, New Mexico, New York, Rhode Island, South Carolina, Texas, Virginia, US Virgin Islands

States with pending legislation: California, DC, Indiana, Kentucky, Louisiana, Massachusetts, New Jersey, Utah