



LAND LOSS PREVENTION PROJECT

HEIR PROPERTY

Distressed Borrowers Assistance Network
November 2025



1-800-672-5839



www.landloss.org



DISCLAIMER

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Navigating Heir Property **Overview**

Land Loss Prevention Project Overview

- Who we are, what we do, and why.

Basics of Real Property

- What is land ownership, legally and beyond.

Heir Property Overview

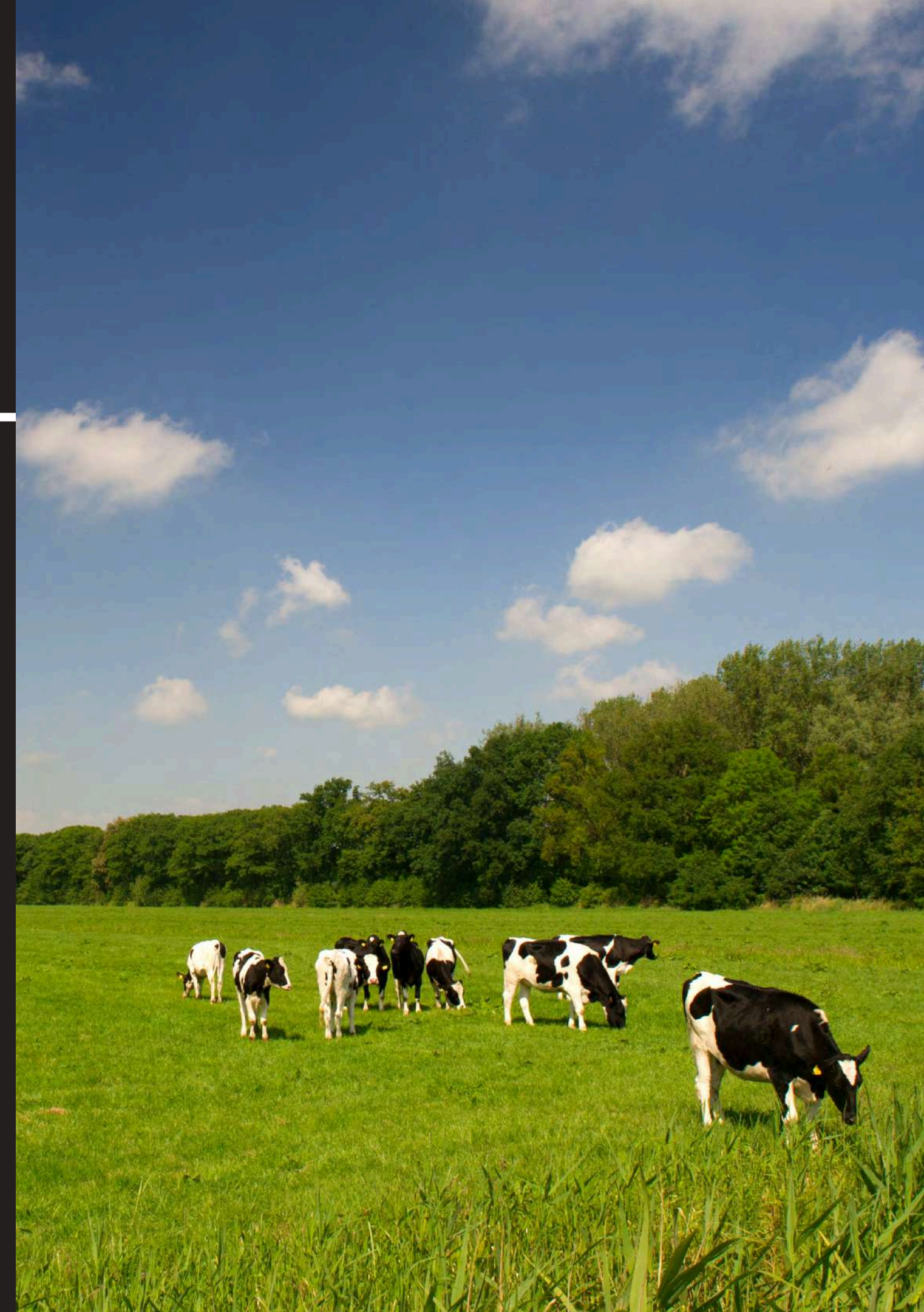
- What it is, how it is created, how much exists, what challenges it creates, what it means for landowners, and some common misunderstandings.

Heir Property: Options for Resolution & Program Access

- What options exist for heir owners: textbook approaches and other pathways.
- What programs and assistance heir owners have access to with and without resolution.

Finding a Way Forward

- What legal and technical assistance is available for heir owners.





What We Do in North Carolina

serving North
Carolina since
1983

The Land Loss Prevention Project (LLPP) was founded by the North Carolina Association of Black Lawyers in 1982 and incorporated in 1983 as a nonprofit law firm in response to the steep decline of Black owned land. Our work on behalf of farmers and landowners involves direct legal representation, technical assistance, collaborative policy analysis and innovation, and training for community groups, attorneys and advocates.



Legal services provided by LLPP:

- foreclosure prevention
- estate & farm succession planning
- evaluating & stabilizing heir property
- addressing real property disputes
- small business planning & entity formation
- preparing farm leases
- filing Chapter 12 & 13 bankruptcy as needed



Relationship to Land is **more than ownership**

Land ownership & access to land can provide a number of well-known benefits, tools, & resources, including:

- Opportunities for the creation of individual & family wealth
- A source of rights, status & political power
- Access to food, shelter, & other human necessities

However, land ownership & access can provide much more than that:

- a way to form & maintain ties with family members, ancestors, future generations, & the community at large
- sovereignty, individually & as communities
- a resource for self-sufficiency & sustainability
- a deeper connection with & understanding of the land itself



Challenges faced by landowners

Land ownership can also come with challenges, both economic & otherwise:

- Increasing land values can create development pressure & raise taxes
- Economic tools such as business enterprise creation, tax reduction programs, & conservation programs can be expensive & difficult to access
- Owning real property can make estate planning even more essential, meaning landowners must engage with family members, make a business succession plan, & complete a variety of paperwork including a will, power of attorney, etc., which can also be expensive

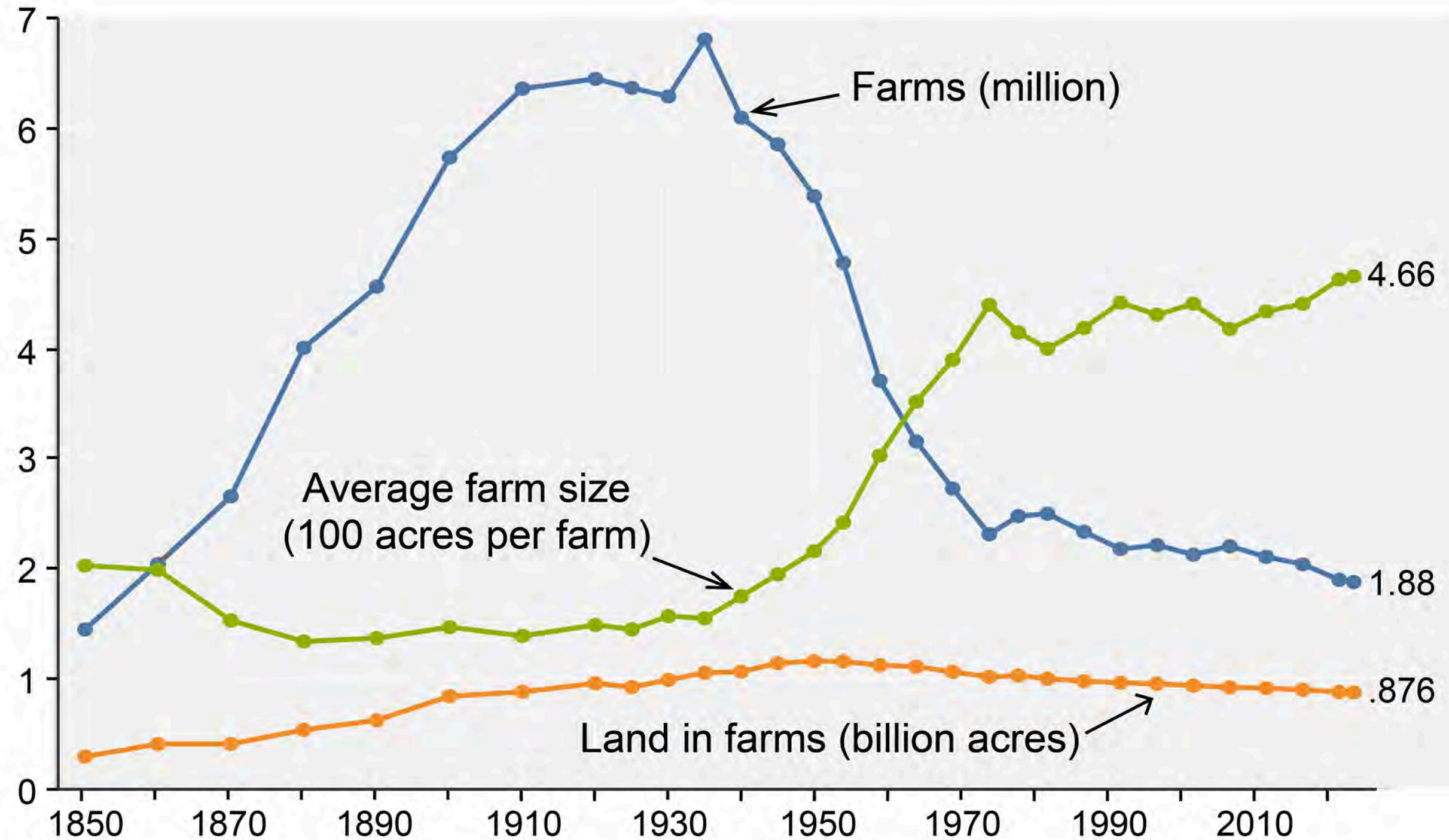
Additional challenges can arise when land is co-owned by multiple people or a group or family, such as in the case of heir property:

- differing views related to the value of the land
- differing relationships to the land
- differing ideas on the proper use, access, & preservation of the land
- differing understandings of rights to the land



Farms, land in farms, and average acres per farm, 1850–2024

Million farms, billion acres, or 100 acres per farm



Source: USDA, Economic Research Service using data from USDA, National Agricultural Statistics Service, Censuses of Agriculture (through 2022) and *Farms and Land in Farms: 2024 Summary* (February 2025).

Nationally, USDA reports a loss of **24 million acres** of farmland between 2016 and 2024.

Acres of land in farms also decreased, with **876 million** acres in 2024, decreasing 3 percent from **900 million** in 2017.

The average farm size was **466 acres** in 2024, only slightly greater than the **440 acres** recorded in the early 1970s.



Farm Land Loss Trends in North Carolina

According to the USDA's 2022 Census of Agriculture, North Carolina is ranked 15th in the country for the loss of farmland between 2017 & 2022 alone. However, as pressure on farmlands accelerates, the American Farmland Trust estimates that the state ranks 2nd in terms of how much farmland is projected to be lost by the year 2040.

950,865

acres of farmland
lost statewide
between 2002
& 2022





How Landowners Can Protect Land in the Face of Change

As landowners navigate a changing environment and face increasing development pressure, it becomes even more important to start with the basics of understand what they own, and if ownership is shared, who needs to be involved in those decisions.

land tenure

"The relationship that individuals and groups hold with respect to land and related resources. Land tenure rules define the ways in which property rights to land are allocated, transferred, used, or managed in a particular society." - LandLinks, USAID





Understanding Title & the Rights Associated

Holding title to real property (land) means you have rights of use & ownership. These rights are most often given by a written document of title (a **deed**) that should be recorded with the Register of Deeds in the county where the property is located. A deed is evidence of title to, or ownership of, property. A deed should be drafted by a lawyer.

In the deed, the person buying or inheriting the land is called the **grantee** & the person selling, willing, or giving the land is called the **grantor**. The title received by the grantee is only as good as what the grantor had to give.

A property owner may hold title to property as the sole owner, or may hold title jointly with other owners.

Ways to Hold Title

LIFE ESTATE

Literally, for the grantee's lifetime. The grantee cannot will or give the property to their heirs because the life tenant's rights to the property end at death.

FEE SIMPLE

A permanent & absolute ownership of the property. The grantee may sell, will, or give the property to whomever they choose.

BY THE ENTIRETY

A form of ownership among spouses. With this form of ownership, when one spouse dies, the surviving spouse will automatically become the full owner of the property.

IN COMMON

A form of ownership wherein each co-owner owns an undivided interest in the property, meaning the land has not been divided & each person has the same rights & responsibilities for management of the full property.

Understanding Deeds as Evidence of Ownership

A deed provides evidence of **title**, or ownership. Other documents, such as a probated will, can also provide this evidence. Often, with heir property, the original owner had a deed, but subsequent generations do not, making it difficult for the heirs to prove their ownership.

State aforesaid, in White Oak Township, and described and defined as follows, to-wit: 1st. Tract. Beginning at
W. J. Sears corner, runs N. with H. Johnsons line to an old sweet gum,
H. Johnsons corner on Rocky Branch, thence with the meanderings of
said branch to a maple, Margaret Sears corner, thence S. with M.
Sears line to a cedar stake on the Olive Chapel Road M. Sears
corner, thence E. with said Road to the Road, thence N. with Holly
Springs Road to W. J. Sears corner on Cedar stake, thence nearly East with
W. J. Sears line to the beginning containing 30 acres, more or less.
Second Tract, Beginning at a pine stump F. W. Church corner, runs
nearly West with Olive Chapel Road to a stake in Albert Williams
line, Also M. Sears corner, thence South to a pine A. Williams
corner, thence East to a corner of Sassafras A. Williams corner, thence
S. with A. Williams line to a sweet gum on Beaver Creek, thence



Heir Property Overview

What Is It?

Heir property refers to land or real estate that is passed down through generations **without a clear title**, often due to the original owner (and sometimes subsequent owners) dying without a will. **This can result in multiple family members sharing ownership.**

Heir property represents the work & sacrifice of generations to obtain & retain ownership of land & offers opportunities for families to come together & build wealth for future generations.





Heir Property Overview Quantifying It

Heir property can be difficult to quantify. Some researchers look at property tax records for indications of heir property, such as property being listed to “heirs of” the original landowner. However, sometimes an individual heir lists the property in their own name only. While methods are imperfect, estimates of prevalence are high.

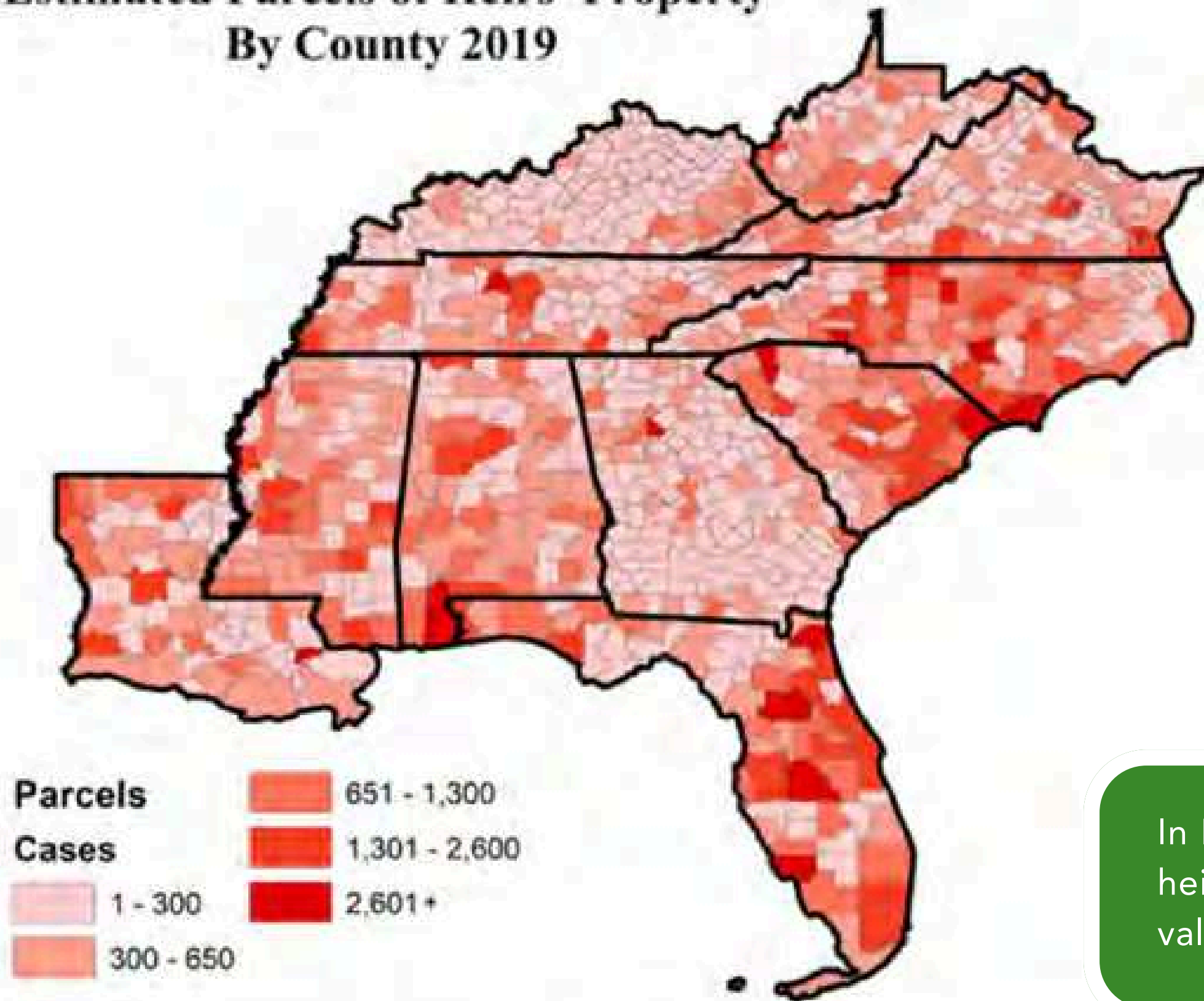
496,994

parcels of heir
property estimated
across Southeast in
2019 study





Estimated Parcels of Heirs' Property By County 2019



Heir Property by County: a study on the estimated number of parcels across the Southeast

A 2019 Auburn University study based on county tax data estimated that there were **496,994 parcels** of heir property across the Southeast US. Those properties accounted for **5.3 million acres** of land & a market value of approximately **\$41.9 billion**.

In North Carolina, the study identified **88,339 parcels** of heir property totaling **537,224 acres** of land & a market value of over **\$8.8 billion**.



Heir Property Overview

What Heir Ownership Means

Heir property owners own the real property as a **tenancy-in-common**, meaning they each own an undivided interest in the property. This means that each heir:

- **has the right to use and enjoy the entire property**, regardless of the size of their interest
- **can transfer their individual undivided interest** in the property to another family member or outside party
- **cannot exclude the other cotenants** from the property
- **must pay their share of the property taxes and the maintenance** of the property
- **may file a petition to partition** the property
- **is responsible for basic repair and upkeep** of the property
- **must agree to any major decisions** dealing with the property, including selling the property, entering into timber agreements, etc.
- **must split any rent or profit** coming from the land with the other cotenants





Heir Property Overview **Challenges**

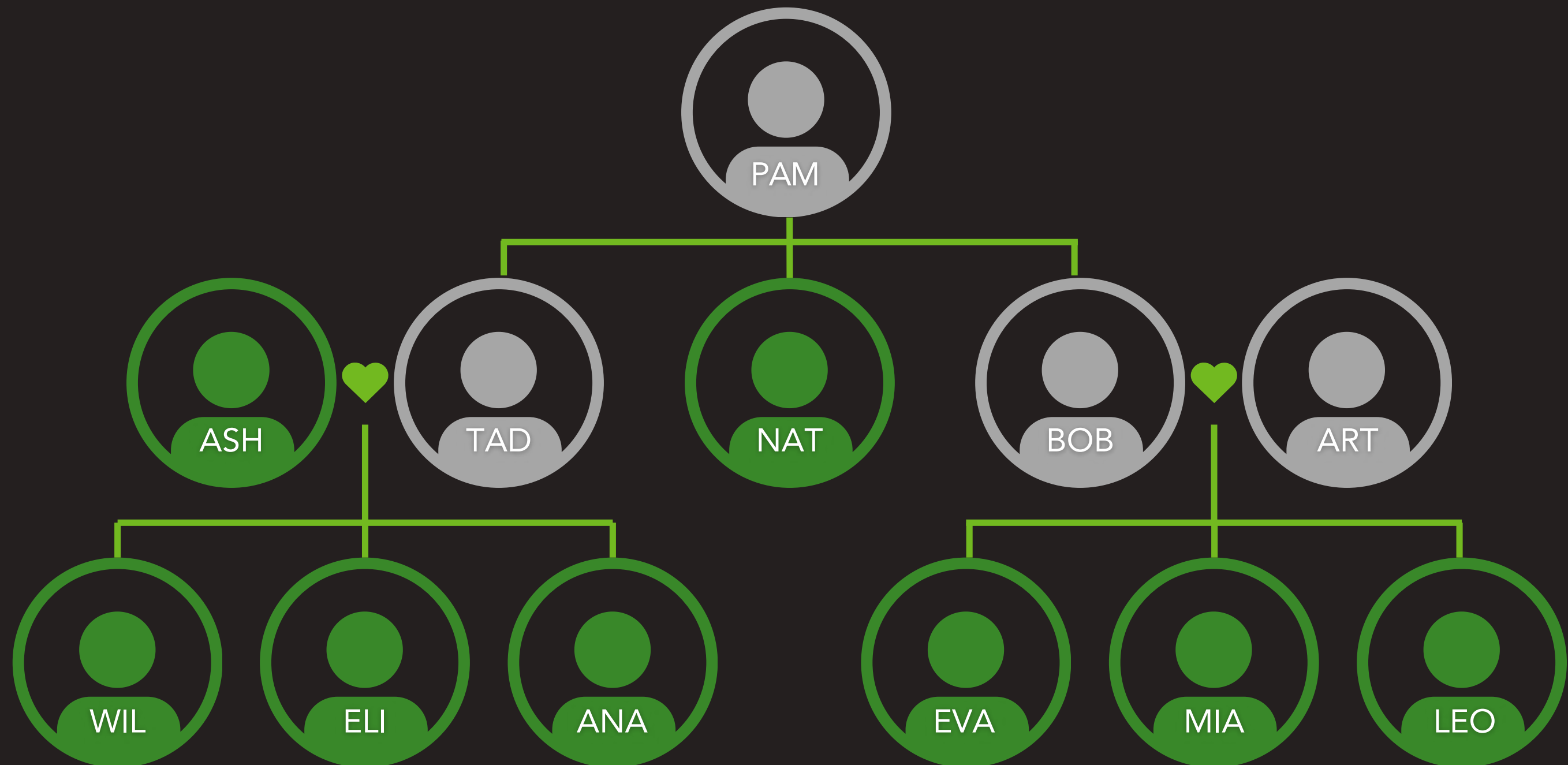
What are the concerns with heir property?

What challenges do heir owners face that other landowners don't?

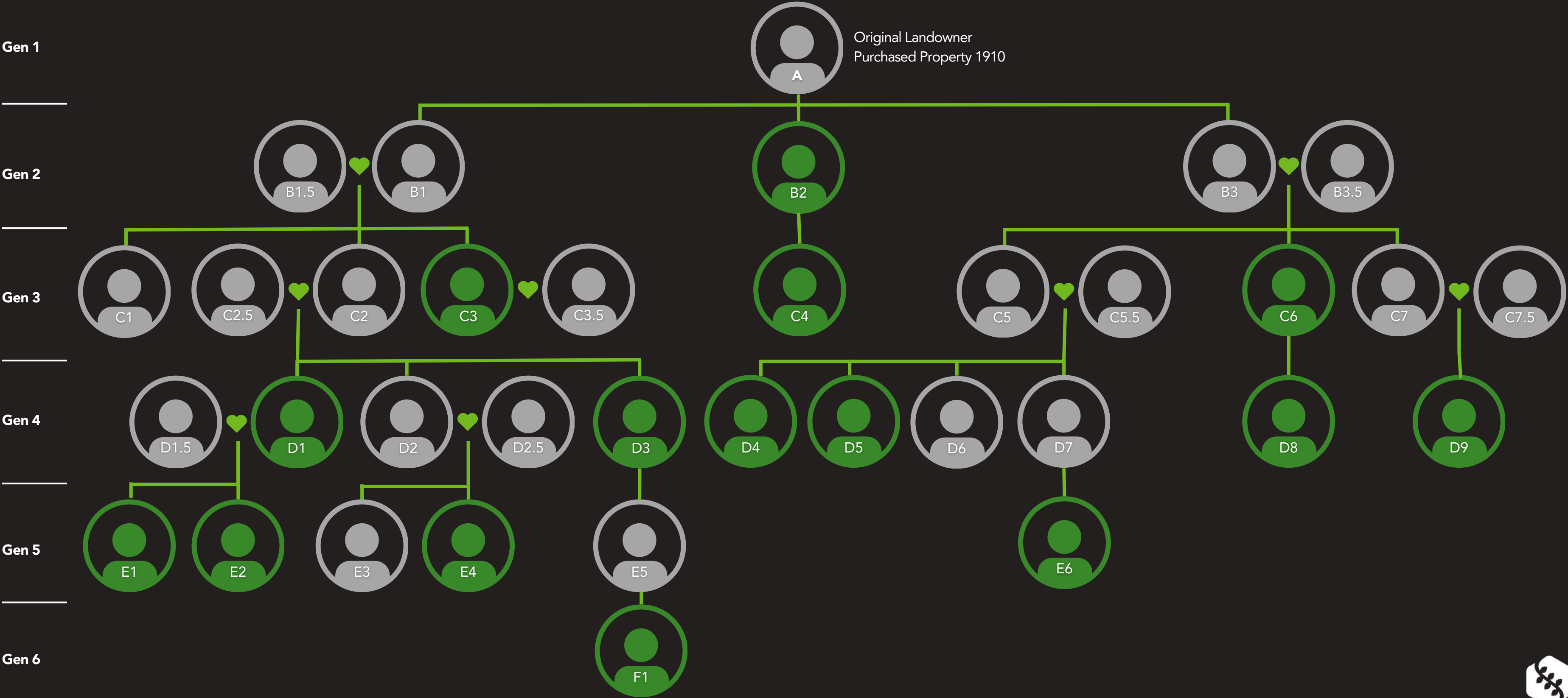
- Difficulty in identifying & keeping track of all heir owners (changes over time, geographic dispersal, have to correctly apply state law of intestate succession)
- The more owners there are - each with the legal right to use and possess the whole property - the more **difficult to reach unanimous decisions**
- Burden of getting **written agreement of all owners** for actions like selling timber or leasing the land to a farmer
- Lack of clear ownership documents such as a deed, leaving co-owners with **lack of proof of ownership** which may prevent participation in government programs
- **Inability to sell or borrow against** property without agreement of all owners
- Responsibility for management of land & payment of taxes falling on some co-owners **unequally**
- Potential for **property loss** due to tax and mortgage foreclosures, and partition sales

Pam dies without a will, unmarried, meaning that her property passes intestate to her children - Tad, Nat, & Bob. Tad marries Ash, Bob marries Art, & both couples have 3 children each. After Tad, Bob, & Art pass away, Nat decides she no longer wants to manage the family land & is looking into her options for selling. However, even though Nat is managing the land, neither of her brothers left a will, meaning that she is not the sole owner of the land. Instead, Nat shares ownership with Tad's surviving spouse Ash, as well as all of her nieces & nephews: Wil, Eli, Ana, Eva, Mia, & Leo. While each party may have a different percentage interest in the land, all of those surviving family members are tenants in common & heirs of the property. *This example is under North Carolina's laws of intestate succession.*

Heir Property Example



Imagine A is the original landowner. A passes intestate, without a will. Everyone in gray passed before A, and only B3, C7.5, and D6 left legal North Carolina wills. C1 left a legal Ohio will, but the will has not been probated in North Carolina. B2 had C4 out of wedlock and B2 never legitimized his son legally. D2 has sold her interest in the land to an individual outside the family. What do ownership interests of the land look like?



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Common Scenarios



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Ask if they have put together a family tree.

4

Ask if they have had any family conversations about the land and whether there are any upcoming opportunities to have those conversations, such as a family reunion.



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Are there areas of current or historical family disagreement?



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Does Martha or other family members have the ability to continue to make payments?

5

Look up ownership documents (deed) and loan-related documents (deed of trust or mortgage) to confirm what Martha said.





Heir Property Overview

Common Misunderstandings

Some heir owners believe that actions they have taken or certain circumstances make them sole owners or give them more say in decision making about the property, but none of these things change legal ownership of the land:

- "I have been the only one living here and maintaining the land; I am therefore the only owner."
- "I've been paying all the taxes on the property; I have greater rights than the other heirs."
- "It was my ancestor's property, so spouses do not become co-owners."
- "Even though my mom didn't have a will, she said that she wanted me to have the property, so my siblings don't have any ownership interest."
- "I am only a part owner of this (heir) property, so I don't need to write a will."
- "I had power of attorney over my parent, so I am the manager or owner of the land now that they passed."
- "All of my parent's children are legal heirs."





A farmer comes to you and says that their mother passed away without a will but told them to manage the land. Is the farmer the only owner?



A landowner says that they are the owner because they are the only one that pays taxes. Is that true?



One of the heir owners wants to farm the land, but their aunt had power of attorney for the grandmother (the original landowner who is now deceased). The aunt says no, the heir owner can't farm. Can the aunt do that?



Heir Property Overview Pathways to Resolution

There are a variety of legal pathways through which co-owners of heir property can resolve the issue & establish clear ownership & responsibilities for the property moving forward:

- consolidate the property title to be held as an LLC
- consolidate the property title to be held by a single individual (one of the co-owners or otherwise)
- fill out an heir affidavit / affidavit of heirship
- create a tenant- in-common agreement
- establish a limited power of attorney
- agree to a voluntary division of the property
- file a quiet title action
- ensure effective estate planning & administration





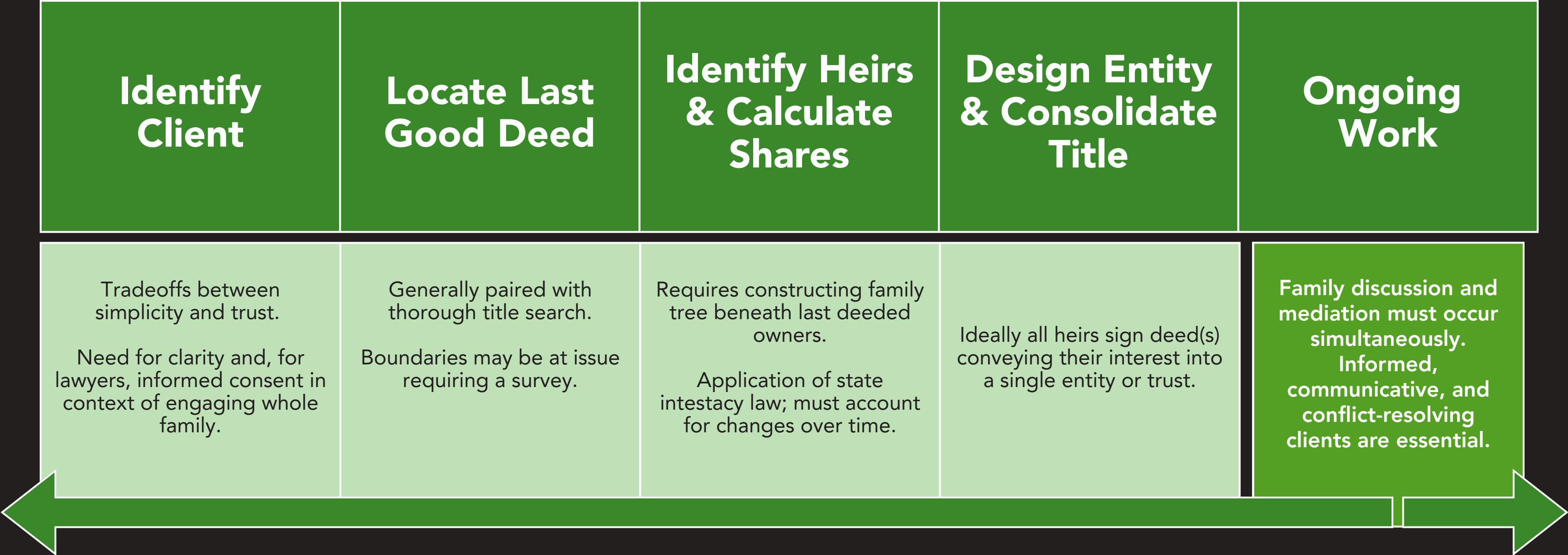
Heir Property Resolution Textbook Approach

The textbook approach to resolving heir property ownership challenges is to **consolidate title** of the property in either a **single individual** or a **single entity**. This resolution generally begins with a **title-clearing process** and is defined by the following features:

- aimed at **retaining land** in the family for long-term stewardship
- largely **non-adversarial**
- seeks to **avoid partition**
- relies on an **informed, communicative family** capable of resolving conflict
- relatively **slow, fact-intensive** process



The textbook title-clearing process generally involves the following steps, though they may not occur in the same sequence and may overlap during the process or need to be revisited depending on the situation.





Practical Considerations **Family Knowledge**

While online search tools have advanced greatly, any attempt to identify all the owners of heir property will rely heavily on family knowledge.

Would you be able to put together a complete family tree, including spouses and descendants, and whether anyone is deceased, starting with:

- your grandparents?
- your great-grandparents?

How many of these people would you be able to contact in some way?

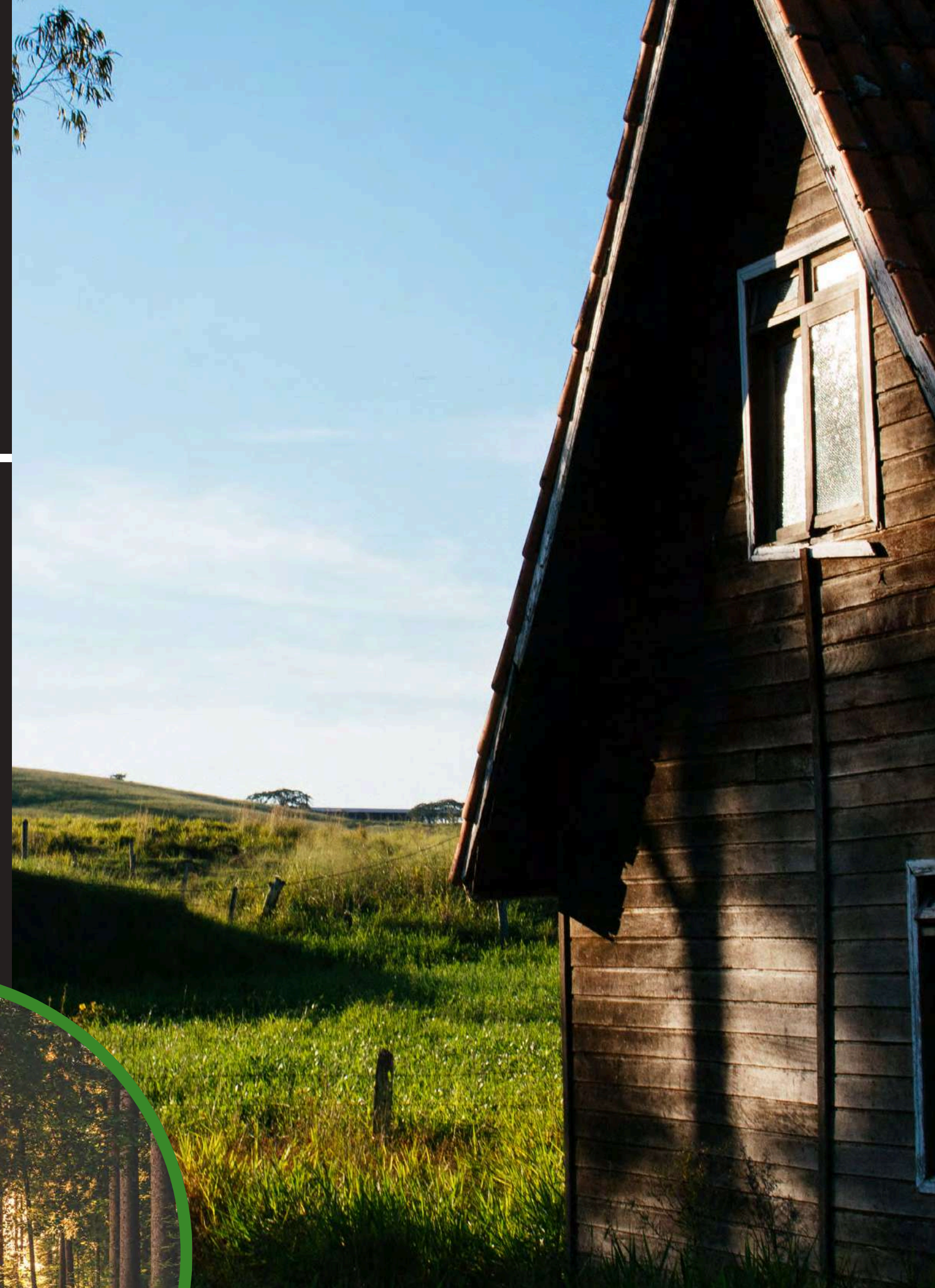




Practical Considerations Conflicts

When heirs have different goals or complicated family dynamics that put them in conflict, options for advocates and service providers include:

- As an outside party, it can be useful to present information in a neutral or more objective way that assists the family in reaching consensus.
- Be sensitive that land and family legacy are often very personal.
- Be honest that heir property resolution takes time.
- Refer the family to mediation as a useful, non-adversarial tool.
- Provide clarity early about your role.





Program Access for Heir Property Owners

Some agencies have, in recent years, begun to meet heir property owners where they are, to ensure they are not arbitrarily denied access to programs and services.

- **2018 Farm Bill:** farm operators on heir property are eligible to obtain a farm number, potentially opening up access to USDA programs.
- Documentation accepted by USDA to establish the farm as an operator can include a tenant-in-common agreement, power of attorney, tax returns, and self-certification such as an affidavit of heirship.

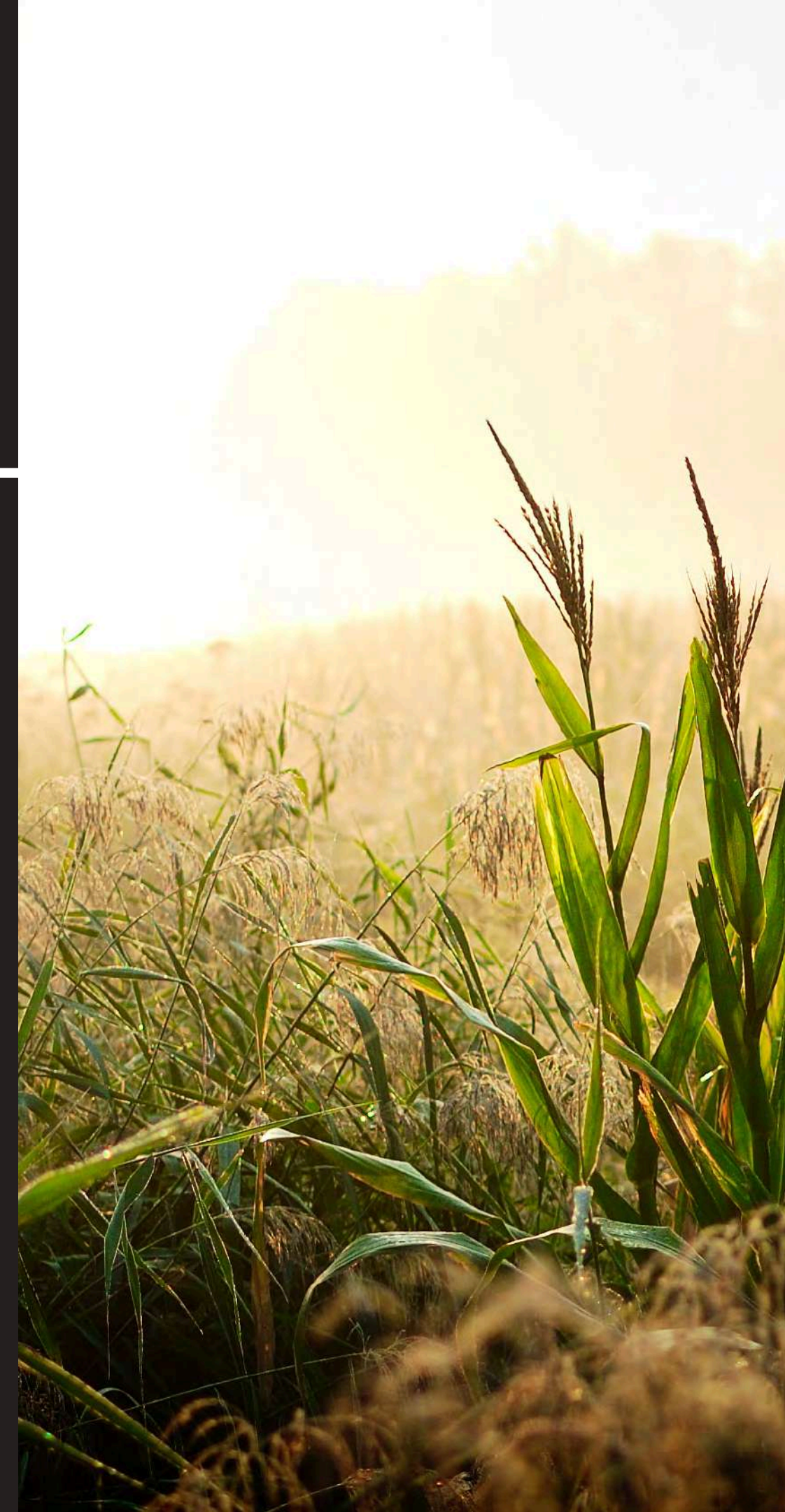




Finding Ways Forward Heir Property Legal Assistance

Some of the Legal Services Organizations Working on HP

- Appalachian Heirs' Property Center (WV, KY)
- Center for Heirs' Property (SC)
- Community Legal Services (FL)
- Homeowner Stability Project (NY)
- Legal Aid of North Carolina (NC)
- Mississippi Center for Justice
- Legal Services Alabama (AL)
- Legal Services in New Jersey (NJ)

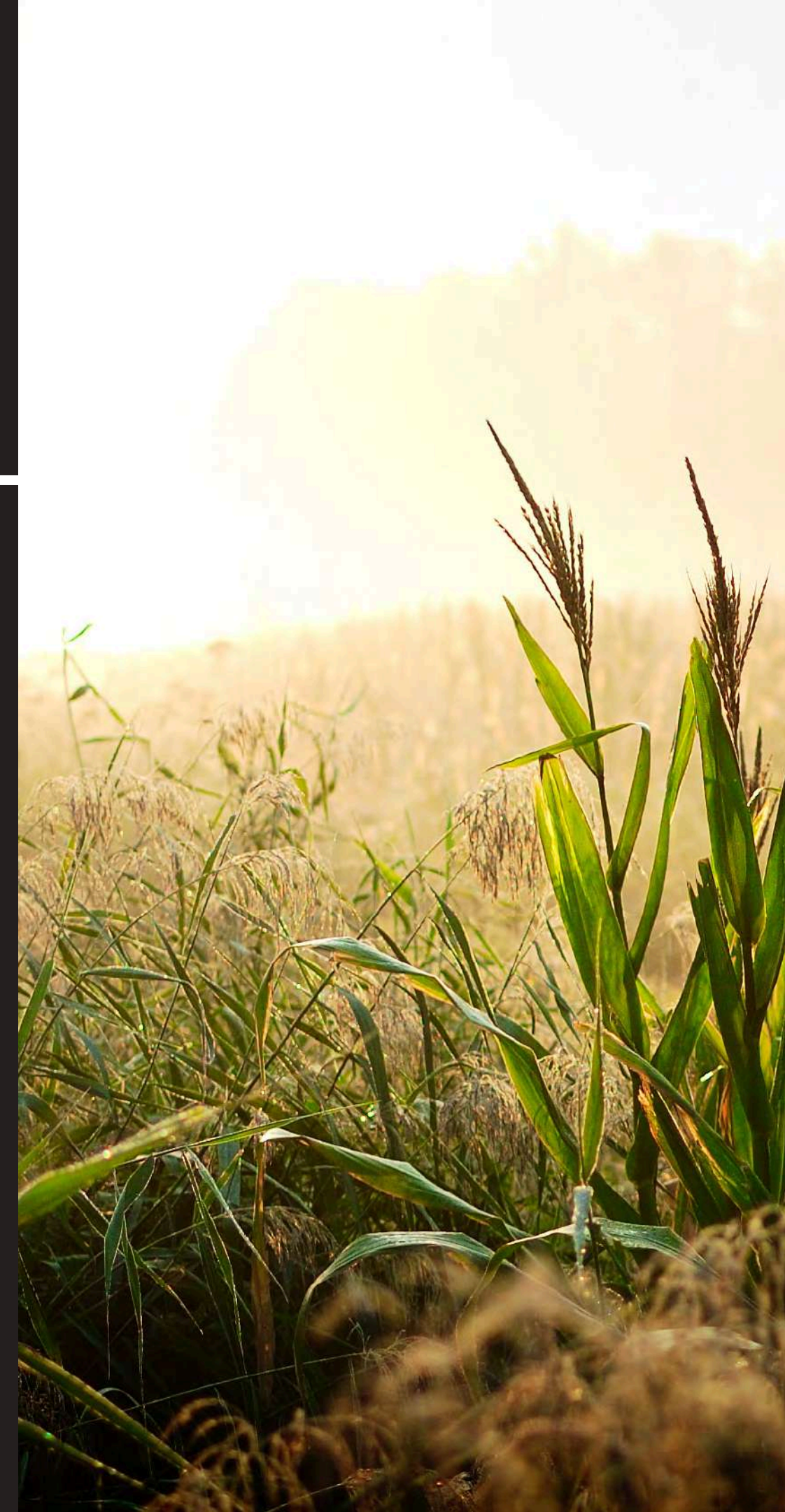




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- Legal Services of Eastern Missouri (MO)
- Louisiana Appleseed Center for Law & Justice (LA)
- Middle Georgia Access to Justice Council (GA)
- Mississippi Center for Justice (MS)
- Neighborhood Preservation Legal Clinic (TN)
- Philadelphia Legal Assistance (PA)
- Richmond Heirs Property Network (VA)





Finding Ways Forward

Other Heir Property Assistance

Some Organizations Doing Technical Assistance & Mediation

- Black Family Land Trust (NC, VA)
- Legal Education & Resource Network of Virginia (VA)
- Philadelphia Tangled Title Fund (PA)
- The Appalachian Heirs' Property Center (WV, KY)
- Center for Heirs' Property (SC)
- NC Agricultural Mediation Program (NC, VA)
- Sustainable Forestry and Land Retention Project (NC)
- Federation of Southern Cooperatives (SE region)



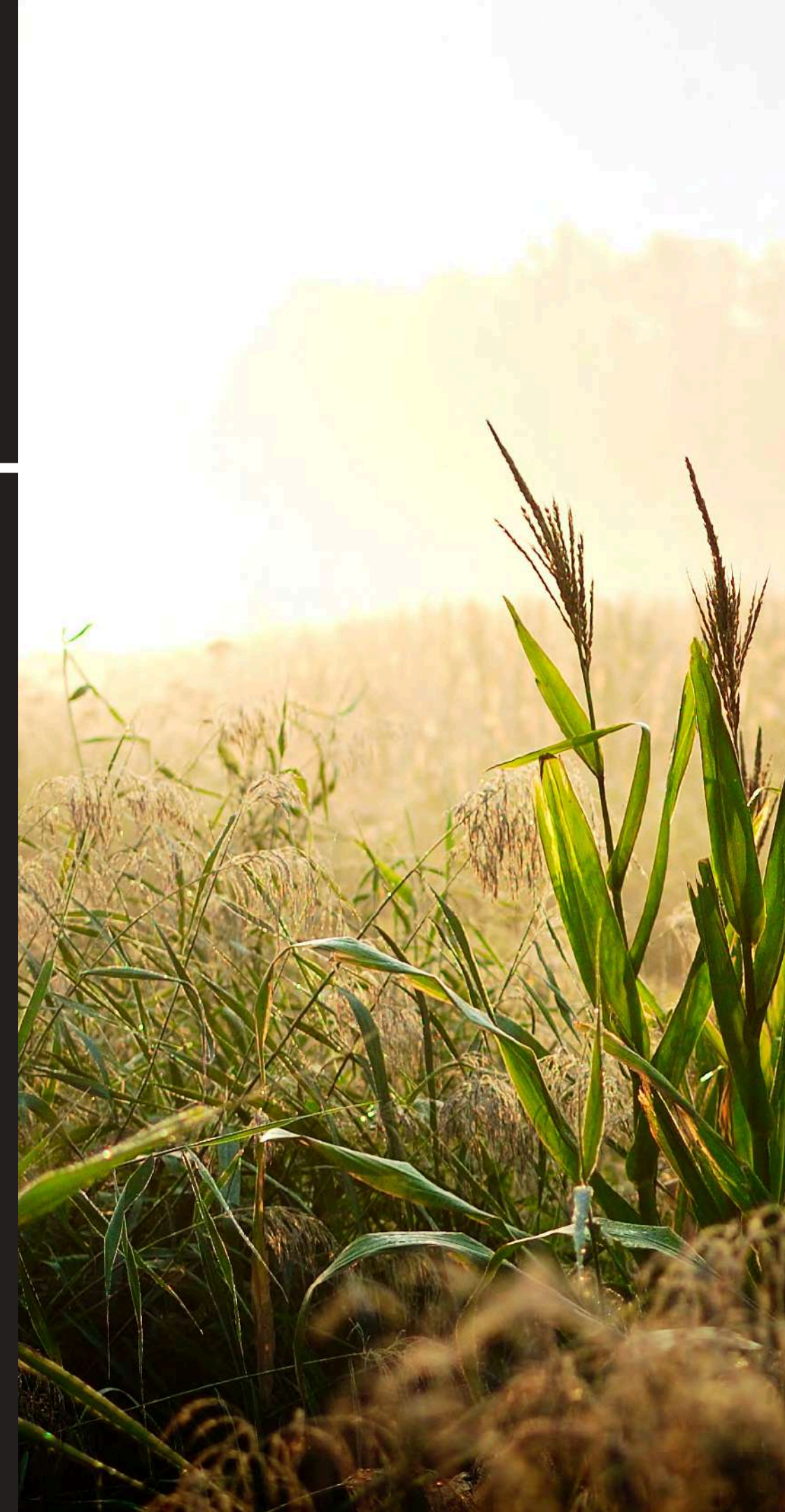


Finding Ways Forward

Other Heir Property Assistance

Universities & Cooperative Extension Programs

- North Carolina State University
- North Carolina Agricultural and Technical State University
- Alcorn State
- Auburn University
- Mississippi State
- Tuskegee University
- Vermont Law & Graduate School
- Virginia State University
- Virginia Tech
- Wake Forest University School of Law
- West Virginia University





Thank You!

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