

# ALACHUA COUNTY PROPERTY APPRAISER'S OFFICE PRESENTS PROBATE AND ESTATE PLANNING SUMMIT



AYESHA SOLOMON  
ALACHUA COUNTY  
PROPERTY APPRAISER  
KNOWLEDGEABLE • COMMUNITY FOCUSED • COMMITTED



**THIS EVENT WILL BE  
PHOTOGRAPHED/RECORDED**

These photos and/or videos may be used for publications, news releases, online, and in all other forms of communication both digitally and in print, as our offices see fit.

# You can't take your stuff with you

## What do you do?

1. Give it away during life
2. Do nothing – which means that the law will identify who your legal heirs are and will divide your property among them regardless of your preferences
3. Write a will or create an estate plan that identifies who you want to have get your stuff





Heir property arises when a landowner dies, and the title records are not updated to reflect the new owner(s)

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**What is Heirs Property?**

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**Why is it bad?**

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**How do we avoid it?**

## Why is this bad?

1. It creates what is called **cloudy title** which means the official records don't reflect the true ownership.
2. Figuring out who the true owners are becomes more and more difficult and expensive the longer we wait to clear it up through legal proceedings called **probate**.
3. And the longer we wait, the more likely it is that the ownership shares will be **fractionated** as owners die and their shares of the property pass to their heirs.
4. So how do we avoid it? Through modest **estate planning**



Cloudy title is when the official title records at the tax collector's or property appraiser's or clerk of court's offices don't reflect the true ownership of the land.

**People who own land with cloudy title cannot:**

- Get homeowner's insurance to protect the property
- Get homestead exemption to reduce taxes and protect against creditors
- Get a mortgage or a permit to fix the roof
- Get FEMA funds if the property is damaged in a hurricane
- Lease the property
- Sell the property
- Risk losing the property at tax sale if they don't get the tax bills and pay them



# What is Cloudy Title?

# How do you clear up cloudy title?

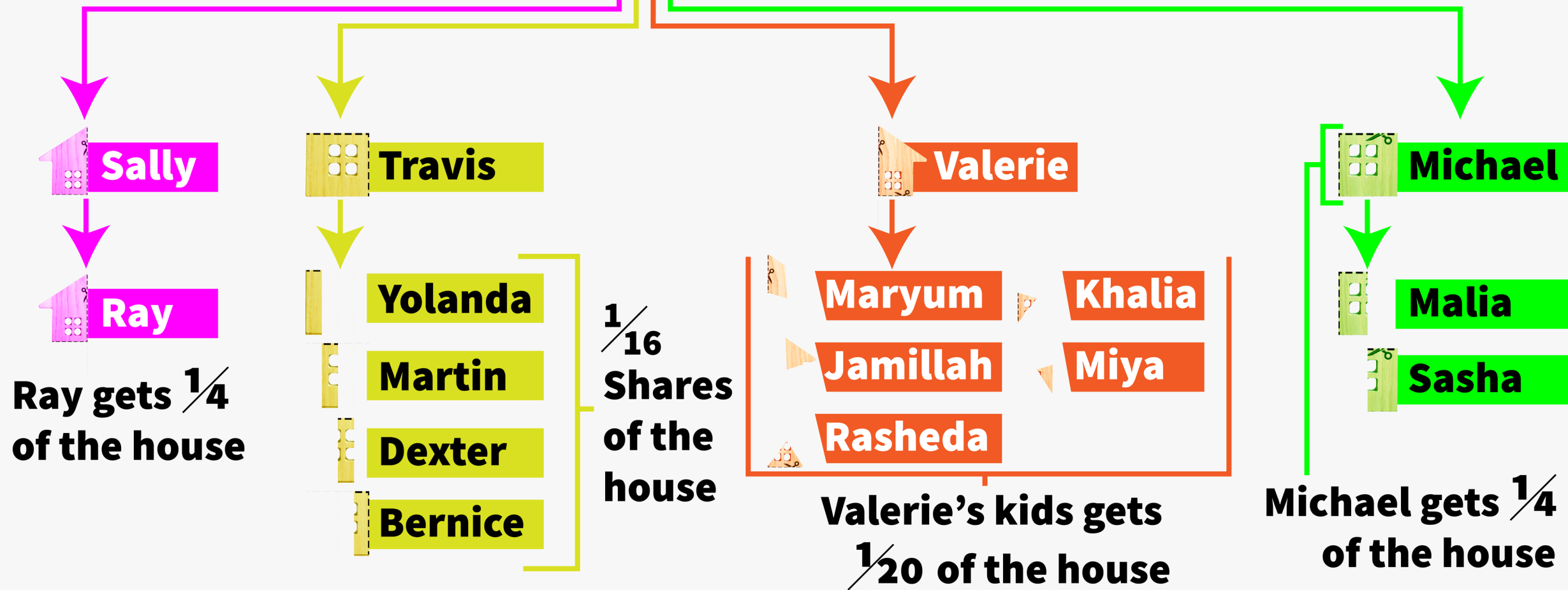
**It depends**

1. If the prior landowner did some **estate planning** and put the land in trust, or executed a joint-tenancy deed or ladybird deed, then clearing up cloudy title is fairly easy. If the owner has died, the surviving joint tenant or beneficiary of the ladybird deed can go down to the Property Appraiser's Office with a copy of the death certificate and get that deceased person's name removed. Less money!
2. If the prior landowner died with a will, or without a will, the new owners will need to go through court-supervised **probate** proceedings. These are not scary or difficult, but they do require a lawyer and you have to follow through. Once you prove to the judge who the new owners are supposed to be, the judge will issue an order to allow the title records to be changed. More money!





# Grandma and Grandpa



# What is Fractionation and why is it so bad?

Inherited property is usually inherited in a form that is called **tenancy in common** in which different people hold different-sized, inheritable shares. So, unless the property is being inherited by one person, then the new owners are going to have fractional shares. The sofa, the box of cheerios, and the house are all going to pass in fractional shares to the heirs if there is no will, or a will gives everything equally to all the kids.



And why are fractional shares so bad?  
Because **all** the owners have to agree to:

- sell the property
- lease the property
- mortgage the property
- decide who is going to live on the property
- insure the property
- get a permit



**How Do We Fix It Once We  
Are In Heirs' Property?**

**PROBATE**



# **PROBATE**

“Probate is the judicial process whereby a will is ‘proved’ in a court of law and accepted as a valid public document that is the true last testament of the decedent, or whereby the estate is settled according to the laws of intestacy in the state of residence of the deceased at the time of death in the absence of a legal will.”



# **ALACHUA COUNTY CLERK OF COURT**



# HOW TO FILE

- An estate gets started by filing a petition with the Clerk of Court.
- Petitions can be filed by mail, in person, or through the Florida Court's e-filing portal
- Depending on the type of estate filed, filing fees vary from \$231 to \$400



# WHERE TO FILE?

The place to file a probate petition (venue) is the county where the decedent resided, or if the decedent is not a Florida resident, where the real property is located.

## FORMAL ADMINISTRATION

- ▶ For assets over \$75,000 or appointing a personal representative.
- ▶ An attorney is required.
- ▶ The filing fee is \$400

## **SUMMARY ADMINISTRATION**

- ▶ Estate value less than \$75,000, excluding homestead value –OR–
- ▶ Deceased more than two years.
- ▶ Filing fees are \$235/\$345
- ▶ Petition form is online at [www.circuit8.org/self-help/forms-and-checklists](http://www.circuit8.org/self-help/forms-and-checklists)

# **WILLS**

- ▶ Deposit wills with Clerk, within 10 days after death, per F.S. 732.901.
- ▶ File with proof of death.



# Clerk of Court Online Resources

- The Alachua County Clerk offers easy to use interactive forms through DIY (Do-It-Yourself) Florida, which uses interview style questions to lead you through the steps and prepare official court forms.

<https://www.alachuacounty.us/Depts/Clerk/Pages/SelfHelp.aspx>

- Standard forms are available online at [www.alachuaclerk.org](http://www.alachuaclerk.org) at Forms/Probate

# What Happens After This Gets Filed?

## **What happens after the probate documents are filed in Official Records:**

- Property Appraiser receives copies of the Order of Summary Administration and/or Order Determining Homestead Status. Our office is generally 2 weeks behind recording.
- Verify legal description of parcel
- Verify deceased owners' percentage of ownership
- Update our records to show new owners with percentage of ownership.

# **ALACHUA COUNTY PROPERTY APPRAISER'S OFFICE**



**AYESHA SOLOMON**  
— ALACHUA COUNTY —  
**PROPERTY APPRAISER**  
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# What is Homestead Exemption?

- The tax exemption for homestead property is a valuable property tax benefit that can save homeowners up to \$50,000 on their taxable value.
  - When someone owns a property and makes it his or her permanent residence or the permanent residence of his or her dependent, the property owner may be eligible to receive a homestead exemption. An initial application is necessary for most situations.
-

## **WHAT HAPPENS TO THE TAX BENEFIT WHEN YOUR LOVED ONES PASS AWAY AND WHAT IS THE RESPONSIBILITY OF THE HEIRS?**

Homestead tax exemption is an individual benefit or overlapping benefit between spouses, the main responsibility for those family members that manage the legal or financial affairs for the decedent are to notify the office regarding possible changes to the claim of that exemption.

## **WHAT HAPPENS WITH THE EXEMPTION(S) WHILE PROBATE IS ONGOING?**

Property taxes will be issued without any tax breaks until probate determines the title of the home and exemption can be granted accordingly.



## **WHAT HAPPENS WITH THE EXEMPTION AFTER PROBATE IS FINALIZED?**

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1. New owner contacts our office
2. We revisit the original application submitted to ensure it is still a good standing claim
3. We process current year and submit previous year(s) to be reviewed for a correction (statutory limitation to 4yrs).

## **WHAT HAPPENS IF A TAX EXEMPTION CHANGE GOES UNREPORTED?**

If an heir(s) realizes the property tax exemption(s) stayed claimed improperly, they must contact the county Property Appraiser's Office, the claim changes must be notified as soon as identified to ensure benefit is removed for current year.



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# Heirs Penalty and Interest Relief Program

**What is a Tax Lien?**  
**How is it calculated?**

Since the program was established  
in mid-2023, 9 heirs residents  
have been covered under  
the program





# Program Example

# (2014-2023) 10 Year LIEN

- **TOTAL LIEN AMOUNT = \$22,422.<sup>66</sup>**
- **PENALTY = \$5,077.<sup>83</sup>**
- **INTEREST = \$7,190.<sup>83</sup>**

**TOTAL RELIEF PROGRAM  
ABATED AMOUNT**

**\$12,263.<sup>14</sup>**

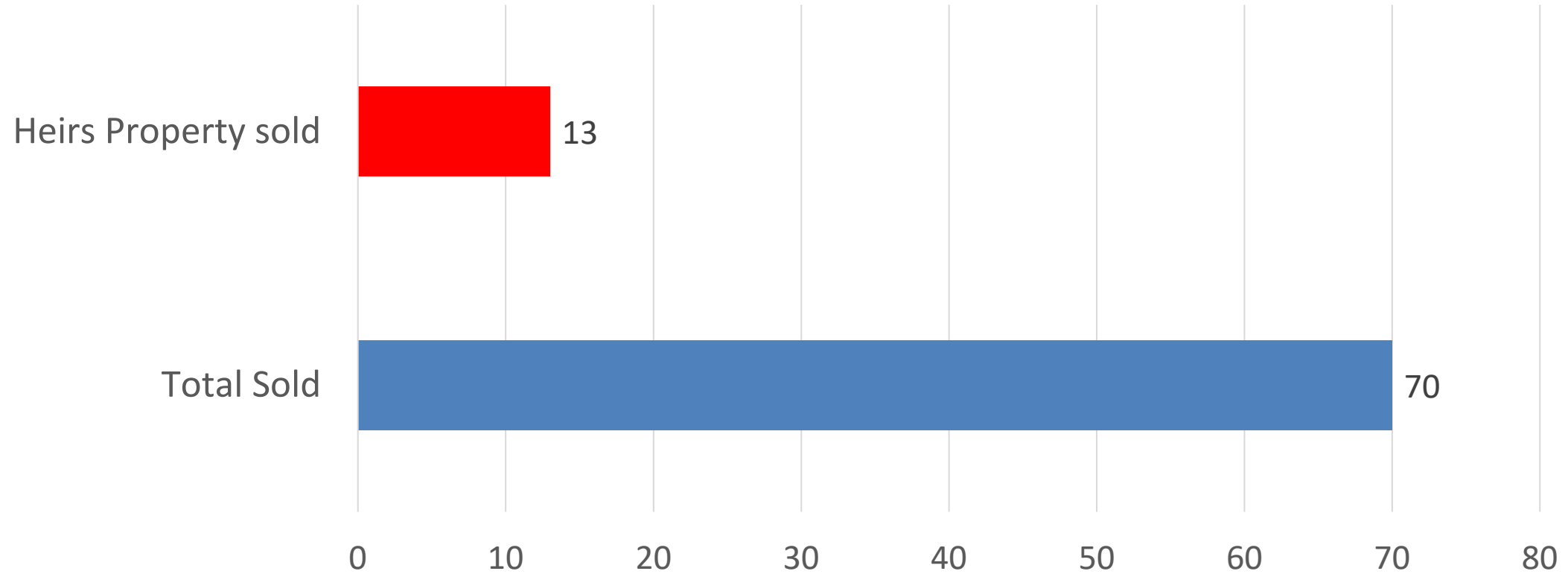


# Alachua County Tax Collector

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*John Power* | TAX  
COLLECTOR

## Tax Deeds Sold in 2023



# Frequently Asked Questions



## **Can I see if taxes are paid or unpaid on a property?**

Yes, property tax information is public information.

## **How many Heirs' properties in Alachua County have delinquent taxes?**

There are approximately 1686 heirs' properties in Alachua County. There are currently 322 heirs' properties with delinquent taxes.

## **How long can taxes be unpaid before the property is in danger of being sold?**

2 years from the date of delinquency the tax deed sale process can begin.



# **Frequently Asked Questions**



## **If I pay the taxes, can I own the property?**

You cannot own the property by just paying the taxes. You will have to purchase the property at a tax deed sale (be the high bidder).

## **How can I purchase the tax certificate (tax lien) on a property?**

Tax certificates are sold online during the month of May each year ([www.lienhub.com](http://www.lienhub.com)). The certificates are awarded June 1<sup>st</sup> to the bidder who bids the lowest interest rate.

## **If I purchase a tax certificate, how can I become the owner of the property?**

After your certificate is 22 months old, you can apply for the tax deed and force the property to Public Auction. It cost approximately \$1,000.00 in fees plus all the delinquent taxes. If you are outbid at the auction, you get all your money back with interest.

# **Delinquent Tax Timeline**



**NOVEMBER 1:** Taxes are due and payable

**APRIL 1:** Unpaid taxes become delinquent

**JUNE 1:** A tax certificate is sold online

([www.Lienhub.com](http://www.Lienhub.com))

**Two** years later, the property can be sold at a tax deed sale

([www.alachua.realtaxdeed.com](http://www.alachua.realtaxdeed.com))

**For any additional questions, please contact the Alachua County Tax Collectors Office**

**(352) 264-6968 or visit us online at [AlachuaCollector.com](http://AlachuaCollector.com)**

**CAN ALL OF THIS BE  
AVOIDED?**

**MAYBE...**



# BE PROACTIVE

## Estate Planning:

- Last Will and Testament
- Advanced Directives
- Ladybird Deed



# What to think about when writing a will?

- The fewer the beneficiaries the better to avoid fractionation of real property
- Who is best able to maintain and pass on the home or other real property?
- Can you give different beneficiaries different property to show you love them equally?
- Write down instructions regarding what you want to have happen to your real estate (it may not be legally enforceable but it will help the survivors)
- Can you incentivize your beneficiaries to follow through with probate to clear title quickly?
- Do you know someone who can be appointed personal representative of your estate who you trust to quickly and efficiently administer and probate your property?





# Enhanced Life Estate Deeds

- Sometimes referred to as a “Ladybird Deed”
- The Grantor (owner of the property) maintains ownership of the property during their lifetime
- Can sell the property; mortgage the property; or give it away
- It only takes effect upon the Grantor’s death
- No probate action (court case) is necessary to transfer the property to the remainderman
- Owner can change his/her mind and do a new deed naming a different remainderman



# DEEDS

- THERE ARE WAYS TO DEED PROPERTY TO YOUR HEIRS.
- DO NOT DO THESE YOURSELF!!
- YOU DON'T KNOW WHAT YOU DON'T KNOW.

# TRLS Eligibility

- In general, clients must be low-income unless we have a grant source that allows us to exceed the income guidelines.
- Low-income is at or below 200% of the Federal Poverty Guidelines IF the client has a fixed expense (mortgage payment, rent, childcare, medical care, transportation costs, etc.) regardless of the amount of the expense.
- Income guidelines are based on the size of the Household...  
i.e. how many people live in your home on a permanent basis
- Additionally, clients must not have too many assets.



# Federal Poverty Guidelines – 200%

Size of Household Unit	Gross Yearly Income	Gross Monthly Income
1	\$30,120	\$2,510.00
2	\$40,880	\$3,407.33
3	\$51,640	\$4,303.33
4	\$62,400	\$5,200.00
5	\$73,160	\$6,096.67
6	\$83,920	\$6,993.33
7	\$94,680	\$7,890.00
8	\$105,440	\$8,786.67
Each Additional Member	\$10,760	\$896.67

# Income includes:

- Wages and salaries before any deduction
- Income from net self-employment
- Regular payments from governmental programs for low-income persons or persons with disability
- Social Security payments
- Unemployment and workers compensation
- Strike benefits
- Veteran's benefits
- Training stipends
- Alimony
- Child support
- Military family allotments
- And other regular or recurring sources of financial support that are currently and actually available to the applicant



# Income does NOT include:

- The value of food or rent received by the applicant in lieu of wages
- Money withdrawn from a bank
- Tax refunds
- Gifts
- Compensation and/or one-time insurance payments for injuries
- Non-cash benefits (SNAP) and up to \$2,000 per year of funds received by individual Native Americans that is derived from Indian trust income or other distributions exempt by statute.



# Asset Restrictions

- An applicant who is otherwise eligible for assistance under the income guidelines will not be eligible for services if the applicant's assets are over \$8,000, plus \$2,500 for each additional household member. For instance, a family of four will be eligible for services if the total income is below \$5,200 per month AND they have total assets at or below \$15,500.
- Items that are **NOT** considered as assets:
  - Principal residence (home) of the applicant
  - Vehicles used for transportation (no limit on the number of vehicles)
  - Assets used to produce income (such as a semi tractor/trailer)

# Timelines

- Most intake is done by phone.
- Applicant calls TRLS at **866-256-8091** or **352-372-0519** to do an application.
- Applicant is screened and added to TRLS case management system.
- Application is sent to an advocate to schedule an interview...
  - Interviews by phone can be as soon as the next day or may take a couple of weeks if unable to reach Applicant by phone.
  - If Applicant doesn't answer phone or return call, TRLS will send a follow-up letter.
- Once case is accepted for service, it will be placed on a waitlist for service, which can be 2 to 4 months on average, based on grant sources and staffing.
- Emergency cases are handled as quickly as possible, which may result in other cases staying on the waitlist for a longer period of time.
- **Applicants who have terminal conditions and need Wills or Advance Directives prepared immediately will receive service ahead of other clients.**



*LyTanya Brown, Esq.*

*Land Retention Attorney*

*Federation of Southern Cooperatives/Land  
Assistance Fund*

# *Federation of Southern Cooperatives/Land Assistance Fund Overview*

# *MISSION*

To be a catalyst for the development of self-supporting communities through cooperative economic development, land retention, and advocacy.

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# *CHARTER*

The Federation was chartered in Washington, DC to serve 17 states:  
Alabama, Arkansas, DC, Florida,  
Georgia, Kentucky, Louisiana,  
Maryland, Missouri, Mississippi,  
North Carolina, Oklahoma, South  
Carolina, Tennessee, Texas,  
Virginia, & West Virginia



# *The Federation is a National Leader on Heirs Property*

1980

- Congress commissioned the Federation to conduct the first research study on heirs' property
  - "The Impact of Heir Property on Black Land Tenure in the Southeastern Region of the United States"
- 





# *Scope of Heirs Property*

In 13 Southern states (Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Texas, Virginia, and West Virginia) there are 1.4M acres of heirs property valued at \$15.48B

- Unpublished manuscript “Quantifying Heirs Property Across the Deep South: A Geospatial Approach” by Dr. Ryan Thomson, Auburn University



# *Scope of Black Farm Land Loss*

By 1910, **218,000** Black farmers acquired **15M** acres of land. By 1992, there were only **18,000** Black farmers remaining owning only **2.3M** acres which represents a **90%** decline in both Black farmers & Black owned land.

In 1920, Blacks owned **925,710** farms. As of 2002, there were only approximately **29,090** Black-owned farms representing a **97%** decline.

From 1993 to 2003, approximately **94%** of Black farmers lost all or part of their land. This rate was **3** times that of White farmers for the same period.



# *Partition Sales & Land Loss*

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- Since any co-tenant can sell their undivided interest in the property; any co-tenant may petition the court for a **PARTITION**
  - Partition in kind – dividing the physical property with boundaries according each individual's share
  - Partition by sale – selling the property and dividing the proceeds according to each individual's share
- While partition in kind is the preferred policy, courts often grant partition by sale which results in an auction of the property. The highest bidder at this partition sale (auction) owns the property outright.
- Heirs are often unable to compete, and the land is usually lost to the family permanently.



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

## What does the UPHPA do?

- **Provides Legislative Definition of Heirs Property** – this definition serves as a baseline to ensure Heirs Property owners receive the full benefits of legal property ownership status. This definition has been used under the 2018 Farm Bill to broaden access to USDA Programs and services for Heir Property owners and in new FEMA Guidelines.
- **UPHPA Heirs Property Definition**
  - Real property held in tenancy in common which satisfies all of the following requirements as of the filing of a partition action:
    - (A) there is no agreement in a record binding all the cotenants which governs the partition of the property;
    - (B) one or more of the cotenants acquired title from a relative, whether living or deceased; and
    - (C) Any of the following applies:
      - (i) 20 percent or more of the interests are held by cotenants who are relatives;
      - (ii) 20 percent or more of the interests are held by an individual who acquired title from a relative, whether living or deceased; or
      - (iii) 20 percent or more of the cotenants are relatives.
- **Prevents Land Loss due to Partition Sales by Requiring**
  - Notice to Protect Due Process
  - Right of First Refusal
  - Appraisal for Determining Fair Market Value

# *Uniform Partition of Heirs Property Act (UPHPA) Continued*

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## **Enactment**

The (UPHPA) has been enacted in 19 states & US Virgin Islands – (Alabama, Arkansas, California, Connecticut, Florida, Georgia, Hawaii, Illinois, Iowa, Maryland, Mississippi, Missouri, Montana Nevada, New Mexico, New York, South Carolina, Texas, & Virginia) and has been introduced in 7 states (District of Columbia, Indiana, Kentucky, Massachusetts, New Jersey, North Carolina, & Utah).





# *Mobile Estate Planning Clinic*

## Will

A document that defines how the Testator would like assets distributed after the Testator die.

- **Testator** is a person leaving a will.

General Requirements (vary by state law):

- You must be at least 18 years of age
- You must be of sound mind
- Must be in writing
- Must be properly executed:
  - Signed
  - Witnessed – by 2 non-beneficiaries
- Becomes legally enforceable only after the Testator dies.
- Must be **probated**.
- **Probate** is the process of distributing a decedent's assets upon their death after the decedent's debts are settled.

# Comparing Wills & Trusts

	WILL	TRUST
DEFINITION	Legal document that determines how your property will be distributed when you pass away	Legal device that creates a responsible relationship which allows the property to be held (by a trustee) for the benefit of another person (beneficiary)
		<b>Living Trust:</b> Trust created during landowner's lifetime
WHY USE IT?	Clearly define how you want your property distributed	Heir property management
		Trustee makes financial decisions and is responsible for making sure the taxes are paid
		Beneficiaries get the rents or profits from the property
TAXES	Cannot be used to avoid taxes	Cannot be used to avoid taxes
ADVANTAGES	Usually CHEAPER to set up than a trust	Avoids probate
		Less likely to be successfully challenged
		More organized decision-making
DISADVANTAGES	Probate costs and potential challenges	Usually more expensive to set up than a will

# *Additional Estate Planning Documents*



## **Living Will**

Legal document that gives you a right to a natural death.



## **Power of Attorney**

Legal document that allows another person to make financial decisions on your behalf.  
Often important for Medicaid planning.



## **Health Care Power of Attorney**

Legal document that allows another person to make health care (end of life) decisions on your behalf.





# *Regional Heirs Property & Mediation Center*

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## Heirs Property Legal Assistance

- Assist Heir Property Owners, members and non-members on a variety of legal issues including clearing title and estate planning.

## Mediation Services

- Assist any Heir Property owners on issues related to their heir's property.
- Assist anyone who receives an adverse decision from any USDA program or service in Florida, Georgia, Louisiana or Mississippi with referrals to other mediators for other states with State Agricultural Mediation Programs.





# *Heir Property Relending Program*

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# Contact



Federation of Southern Cooperatives /  
Land Assistance Fund

Phone: (404) 765-0991 (Admin Office)

Website: [www.federation.coop](http://www.federation.coop)

Email: [loanfund@federation.coop](mailto:loanfund@federation.coop)

# Contact



Federation of Southern Cooperatives /  
Land Assistance Fund  
2769 Church Street  
East Point, GA 30344  
(404) 765-0991  
[www.federation.coop](http://www.federation.coop)

# Contact



## LAND RETENTION TEAM

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# Community Resources

- **Eighth Circuit Self-Help Program**

The Eighth Judicial Circuit has a Self-Help Program located on the Fourth Floor of the Eighth Judicial Circuit's Civil and Family Law Justice Center, 201 E University Ave, Gainesville Florida. Self-Help Program staff will explain procedures; additional court requirements; review the file before scheduling a court event to ensure the correct forms were filed; and help with setting a hearing with the Judge.

Additional information about the Self-Help Program is on their webpage at

<https://circuit8.org/self-help/>

- **Three Rivers Legal Services**, Inc., 1000 NE 16<sup>th</sup> Ave, Building I, Gainesville, FL 32601.  
See their webpage at <https://www.trls.org/>
- **Many Local Lawyers** will provide low-cost or no-cost services if the cases are not too complex

# Additional Community Resources

**Alachua County Clerk of Court: — — — — — (352) 374-3636**

**Alachua County Tax Collector's Office: — — — — — (352) 374-3636**

**Alachua County Property Appraiser's Office: — — — — — (352) 374-5230**

**Three Rivers Legal Services Inc: — — — — — (866)-256-8091  
or (352)-372-0519**

**Federation of Southern Cooperatives : — — — — — (404) 765-0991  
(Admin Office)**





# Probate and Estate Planning Workshop coming soon!

