FARMLAND ACCESS LEGAL TOOLKIT

State Incentives to Clear Title and Facilitate Property Transfer

A Focus on Vermont

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LEGAL TOOLKIT

About the Farmland Access Legal Toolkit

A resilient food system depends on farmers' ability to access and retain farmland. However, American farmland is disappearing at an astronomical rate, while farmers are being priced out by rising land prices, investor-backed land developers, or corporate farms. Many suggest that land access is the single largest barrier for beginning farmers. The Farmland Access Legal Toolkit provides land-seekers, farmers, landowners, and technical assistance providers with educational information and tools to navigate the legal and affordability issues that arise when leasing, purchasing, transferring, and retaining land. Learn more at **farmlandaccess.org**.

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About CAFS

The Center for Agriculture and Food Systems (CAFS) is a research-based center at Vermont Law and Graduate School that produces original scholarly research in the field of food and agricultural law and policy to serve the broadest range of food system stakeholders.

With local, regional, national, and international partners, CAFS addresses food system challenges related to food and nutrition security and affordability, farmland access, food system workers, farm viability, local economies, and public health, among others. CAFS works closely with its partners to provide legal services and develop resources that respond to their needs. Through CAFS's Food and Agriculture Clinic and Research Assistant program, Vermont Law and Graduate School students work directly on projects alongside partners nationwide, engaging in innovative work that spans the food system. Learn more at **cafs.vermontlaw.edu**.

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I. Introduction

Owning land as *heirs' property*, sometimes called *family land*, is a tenuous type of ownership that often leaves landowners unable to fully capitalize on their real property. When landowners own property as heirs' property, they own it as *tenants in common*. In Vermont, this means each individual co-owner owns an undivided interest in the whole property; they each hold a share of the property rather than a specific geographic portion of it. In the context of agriculture, this can make it difficult for farmers to generate income from their land. Farmers working on heirs' property land might also be vulnerable to losing the land to competing uses. Heirs' property ownership is further complicated by a problem known as *clouded title*, which arises when title to the property remains in the name of a deceased ancestor because the deed was never effectively transferred to the heirs.[1]

Clouded title occurs when an unresolved claim, lien, defect, or encumbrance casts doubt on the legal ownership of a property, preventing its free and clear transfer.

Heirs' property is property passed to family members by inheritance, usually without a will, or without an estate planning strategy. Typically, it is created when land is passed from someone who dies "intestate," meaning without a will, to their spouse, children, or others who may be legally entitled to the property.

Since Vermont is a predominantly rural state where land might be passed between generations, one could assume that Vermont might have high rates of heirs' property. However, some research has shown that Vermont's rate of heirs' property and clouded title is manageably low.[2] While the anomalous results may be due to the state's methods of tracking property data, interviews with practitioners suggest the research is accurate. These practitioners, including a lister (Vermont's term for a tax assessor), a probate judge, and lawyers representing many decades of experience in real estate and probate law, point to the state's cultural attributes as well as its legal frameworks to explain why they rarely see heirs' property in their practice. First, Vermont residents have high levels of access to both officials who manage land records and to legal services. In addition, practitioners point to a variety of legal mechanisms that either prevent heirs' property, incentivize clearing title, or allow clouded title to be remediated expeditiously. This case study explains these mechanisms in detail.

After a brief background on the issues that arise from holding land as heirs' property, this case study considers the various aspects of Vermont's unique cultural and legal landscape that contribute to the state's relatively low rates of clouded title. It then examines the frequent use of deeds to avoid probate and thereby prevent clouded title issues from arising. Next, this resource examines how Vermont's property tax system strongly incentivizes clearing title. Finally, it examines several methods for correcting clouded title that do not require a full probate process. Each of these elements may hold lessons for other jurisdictions that want to prevent and resolve the issues that arise for heirs' property owners.

II. Challenges for Property Owners Without Clear Title

When property owners have clear title—which means that their name is recorded in the land records on the deed as the owner of the property[3]—they have access to a variety of wealth- building activities: accessing loans and using the property as collateral; applying for grants and government programs that require clear title; and more easily leasing, selling or otherwise transferring their property. Alternatively, heirs' property owners with clouded title do not have these same opportunities and are vulnerable to losing ownership of their land altogether.

Visit **farmlandaccess.org/heirs-property** to access more information about heirs' property, how it works, specific challenges for heirs' property owners, and a list of organizations that provide direct assistance to heirs' property owners.

Heirs' property is characterized by *fractionalized interests*, which means that the property is owned by two or more—sometimes many more—co-owners, and *clouded title*, which means that the title remains in the name of an ancestor. This often results when an ancestor dies without a will and there are multiple heirs. There are many reasons why heirs might not go through the legal process required to transfer the title to the current heirs. The lack of financial ability, a misunderstanding of the legal system and probate, family disagreements, or family reticence to engage in the legal system can all lead to a lack of formal title transfer.[4] When there are multiple owners of a parcel of land and/or a house—each of which owns an interest in the property—and the deed to the property is not in the name of the current heir-owners, problems can arise, especially as the number of co-owners increases.

Each co-owner must agree to any significant transaction involving the property, including leasing to third parties, selling timber, and other wealth-generating activities. This can lead to family conflicts concerning the land or housing use that can forestall even the most ordinary real estate matters, like securing a mortgage or a home improvement loan.[5]

Fractionalization and clouded title can also contribute to the sudden and involuntary loss of family property. Without an agreement to the contrary, each co-owner has the right to unilaterally transfer their ownership interest to anyone.[6] A co-owner may bring an action for "partition" in court asking for an order to sell the property to obtain the value of their share. Historically, partitions lead to land loss, even for family members still using the land. There is generally no requirement in state law for co-owners to ask other co-owners to buy their shares before seeking partition.

Finally, fractionalization and clouded title can prevent heirs' property owners from accessing myriad government programs,[7] loans (banks and other lenders will not allow owners without clear title to use property as collateral),[8] and adequate insurance and disaster relief.[9]

The Farmland Access Legal Toolkit publishes state-by-state fact sheets that address legal issues relevant to heirs' property in a given state, including

- how to identify legal heirs of the original ancestor who owned the land;
- state partition law;
- state law that permits tax foreclosures, i.e., the sale of land due to unpaid property taxes; and
- state law addressing adverse possession and condemnation (terms defined in the glossary in each resource).

Visit **farmlandaccess.org** to view these fact sheets.

III. Vermont's Unique Legal and Cultural Landscape

Vermont has two underlying, unique characteristics that play a role in its low heirs' property rate. First, there are a high number of lawyers per capita in Vermont, especially as compared to other similarly rural states in the U.S.[10] Second, the state's land records are maintained at the town level,[11] which makes both the records and the officials in charge of them more accessible. In most other states, these records are maintained at the county level which makes these records physically harder to access, especially in larger states.

Access to Legal Services

Access to legal services is necessary to prevent or resolve heirs' property.[12] In 2020, Vermont counted 5.8 lawyers for every thousand residents.[13] Similarly rural states have three or fewer per resident.[14] Of course, the sheer number of attorneys alone does not guarantee any individual access to legal services, but it does improve the odds of a property owner being able to retain an attorney for help, especially if they have the financial means.[15]

In addition, the population in Vermont is relatively demographically homogenous. In much of the U.S., racial discrimination has led to a breakdown of trust in the legal profession, leading large segments of the population to avoid attorney services.[16] Because Vermont's population is nearly 90 percent white,[17] fewer Vermont residents are likely to distrust the legal system.

Small Town Government

The small size of the governmental entities managing land records and property taxes is another factor in the state's low rate of heirs' property. Vermont is among a handful of states where the cities and towns, rather than counties, manage land records.[18] Vermont law provides that most of these records are located at the Town Clerk's office.[19] The State of Vermont contains 247 towns and cities. Most of these municipalities cover roughly 40 square miles. In other states, counties can cover hundreds and sometimes thousands of square miles. As land records shift from paper to online, geographic accessibility may have less consequence, but this detail has certainly contributed to Vermont's minimal heirs' property because property owners have relatively easy access to relevant land records and information that may be needed to clear title.

Vermont's town-based land records offices serve a relatively small population. Additionally, the agents in charge of town records—clerks and listers—are most often elected positions.[20] Therefore, in many cases, these officials have significant ties to many of their town's citizens. Since they handle fewer parcels and may have personal relationships with the family of the property owners, these officials will be more likely to contact the owner or the owner's heirs in the event of a title issue. It is common to hear stories about how these informal occurrences can lead to assistance for owners of heirs' property. For example, town clerks have been known to help property owners create and record a new deed in situations where the official personally knows all the parties involved.[21]

In summary, Vermont's property owners have an arguably unapparelled amount of access to knowledgeable assistance regarding their land records in the form of both their town officials and the legal community. This accessibility allows property owners to take full advantage of the state's various mechanisms for avoiding or correcting a clouded title and may contribute to the low rate of heirs' property in the state.

IV. Preventing Heirs' Property: Probate Avoidance Using Deeds

Probate is the expensive and time-consuming process when administering an individual's estate. Common mechanisms to avoid probate include setting up business entities or trusts that hold real estate for multiple interests,[22] but these methods are often expensive and may require extensive legal services.[23] Vermont practitioners commonly use deeds to avoid probate, a less expensive method that avoids the costs of succession planning and transfers interest in real property.[24] Recording certain types of deeds, also known as *will substitutes*,[25] can help an owner leave their property to heirs simply and with less expense.

A deed is the legal document that captures the intent of a property owner (grantor) to convey an interest to a new owner (grantee).[26] As such, a deed can also be a tool to prevent heirs' property. In Vermont, a deed can be written to immediately confer title to a property upon the death of a property owner. When the deed readily identifies the successor in interest, the new owner does not have to go through probate court's estate administration process to transfer title to the real estate. Vermont practitioners commonly use two types of deeds to avoid probate: a deed that creates a joint tenancy between the current property owner and successive generations, and enhanced life estate deeds.

Joint Tenancy with Rights of Survivorship, or the "Standard Vermont Estate Plan"

It is hard to know exactly how many properties in Vermont are deeded to two generations of a family as joint tenants to avoid probate, but this practice is common enough to warrant the label "Standard Vermont Estate Plan."[27] Typically, this type of deed is created when a property owner adds their children to an already existing deed to real property as joint tenants with rights of survivorship (JTWRS).[28]

Like tenancies in common, in joint tenancies with rights of survivorship, two or more parties share ownership.[29] This type of deed confers an immediate property interest in the joint tenants with all the attendant rights and liabilities.[30] The right of survivorship means that when one of the joint tenants dies, the entire estate passes to the surviving joint tenant without the need for the surviving co-owner to go through the probate process. That surviving co-owner then has clear title to the property, as their name is already on the deed.

Enhanced Life Estate Deeds

Vermont recently passed a law creating Enhanced Life Estate Deeds (ELED), but Vermont courts have recognized ELEDs as a valid form of property transfer for decades.[31,32] An ELED, sometimes called a "Lady Bird Deed," transfers property after the owner's death. In the deed, the property owner reserves the right to live on the property or in the home and transfer or mortgage the property during their lifetime. The beneficiary of the ELED has no legal interest in the property while the original owner is alive.[33]

While drawbacks exist for both ELEDs and JTWRS, these deeds allow the property owner to leave property to their heirs with clear title in a relatively inexpensive manner and enable heirs to avoid probate Because the use of both types of deeds appears to be a standard practice in Vermont, these mechanisms likely prevent significant amounts of heirs' property in the state.

V. Incentivizing Clear Title: Meaningful Relief from High Property Taxes

Because they are unavailable to owners with clouded title, property tax relief programs present a substantial incentive to clear title.[34] In Vermont, property tax relief programs offer relief from high tax rates. In 2023, the state had the second highest property tax burden in the U.S., raising the economic stakes of gaining access to the programs.[35] The Homestead Declaration is an annually required filing for property owners and forms the basis for the Property Tax Credit, a substantial tax credit available to homeowners with income below a certain amount. Landowners can also obtain property tax relief through the Use Value Appraisal system. These programs incentivize property owners to clear title because they are not available to those with clouded title.[36]

Homestead Declaration

Vermont residential properties are assessed according to two different tax rates: homestead and non-homestead.[37] Though there are many nuances in the law, a homestead is defined as a dwelling and the surrounding land that the owner occupies as their primary residence.[38] Non-homestead properties include leased properties, rental homes, vacation homes, and summer cabins, for example. By law, property owners are required to file a Homestead Declaration each year by April 1.[39] All property is considered non-homestead unless a Homestead Declaration is filed.[40] A homestead designation does not automatically result in tax relief for the owner, but it does provide the basis for further property tax relief.[41]

Owners who cannot demonstrate that they have clear title to real estate are unable to file a Homestead Declaration because it requires an affidavit by the owner of record, i.e., the owner listed on the deed. The homestead status is independently verified by the lister of the town in which the property is located[42] who may flag any difference between the person filing the declaration and the recorded owner. If there are multiple owners but they are listed on the deed, some states require signatures from all of them to file for any programs linked to a homestead statute, regardless of whether every co-owner lives on the property.[43]

In Vermont, officials are primarily concerned with whether the property serves as a principal dwelling and whether the resident is also an owner.[44] Indeed, the tax department regulations state "[w]ith respect to other joint owners who occupy the dwelling as their principal residence, it is only necessary for one owner to file a declaration. If only one of two or more joint owners occupies the dwelling as a principal residence, only that owner should file a homestead declaration."[45] Thus, in Vermont, a resident co-owner can file a Homestead Declaration without obtaining every co-owner's affirmation.

Vermont's Property Tax Credit

Households whose qualifying income falls below certain levels may file a property tax credit claim in conjunction with a Homestead Declaration.[46] Unlike some states,[47] in Vermont the household income does not include income from co-owners who do not reside at the property.[48] Rather, only the income of individuals residing in the homestead is included in the calculation.[49]

Co-ownership is not a barrier to obtaining the Property Tax Credit, but it does limit the dollar amount awarded. In the application, claimants are required to indicate their share of ownership of the property. The credit will be calculated based on their percentage of ownership.[50]

As of 2024, the tax credit can be up to $8,000 for those with income below $128,000.[51] In comparison to many other states' programs, this award amount is substantial.[52] Under similar programs in neighboring New England states, for example, the average tax relief is often less than $900.[53] Moreover, though titled a tax "credit," Vermont's Property Tax Credit is a bill adjustment that reduces the tax amount due. The State of Vermont pays the difference directly to the taxing municipality.

Current Use Value Appraisal

Another law that offers substantial tax breaks for landowners is the Use Value Appraisal of Agricultural, Forest, Conservation and Farm Buildings Property Program, also known as "Current Use."[54] Passed in 1978, Current Use was designed to preserve the "rural character of Vermont" and its working landscapes.[55] It seeks to alleviate the economic pressure of property taxes on undeveloped lands and, thus, stymie the development of open spaces.[56] In essence, the program requires tax assessors to appraise the land enrolled in Current Use in its undeveloped state rather than at its fair market value, offering significant tax savings to the landowner.[57] Properties are registered on a voluntary basis with the Department of Taxes.[58] Interested landowners submit an application to enroll their acreage in the program.

> Currently, more than 19,000 parcels of land are enrolled in Current Use, totaling more than 2.5 million acres and covering around one-third of Vermont's total land. The estimated tax relief for Vermont landowners in 2021 was approximately $67 million.[59]

This program is not available to owners with clouded title. It is also difficult for those with fractionalized interests to access. In contrast to the Homestead Declaration and the Property Tax Credit claim, a Current Use application must be signed by all co-owners of each parcel they want to enroll.[60] A contingent lien is placed on each accepted property and filed in the municipal land records.[61] This lien allows the government to collect a land use change tax if the landowner takes the property out of the program.[62] The lien is only released after payment of the land use change tax, which is currently set at ten percent of fair market value of underlying land.[63]

Between the Property Tax Credit and Current Use, there are significant potential property tax savings for Vermont property owners with clear title. Interviews with practitioners, including lawyers, judges, and listers, suggest that these programs do appear to incentivize owners of heirs' property to clear any title remaining in an ancestor's name.

VI. Remedying Heirs' Property: Statutory and Community Tools to Clear Title

Vermont's small town government structure, number of lawyers per capita, and common practice of using deeds to avoid probate minimize heirs' property in the state. In addition, recently passed state laws in conjunction with Vermont's real estate and title industry standards help heirs' property owners who want to resolve title issues.

Section 1801: A Statutory Tool to Clear Title

The Vermont law entitled *Conveyance When Record Holder Deceased* remains largely unchanged from its passage in 1919. Commonly known as Section 1801, the law sets forth a procedure by which a landowner may clear title where it remains in the name of a deceased person whose estate was never probated.[64]

The process is straightforward: If recorded title to an interest in property remains in the name of "a person who has been deceased for more than seven years," "any person" who is in possession or claims the right to possess that property interest may file a petition.[65] The claimant files the petition with the Probate Division of the Superior Court of the county where the property is located.[66] The petition must state the facts of the case and the names of all potential heirs, representatives, or claimants known by the petitioner.[67] The court must determine whether the deceased's heirs or personal representatives have any continuing rights to the property.[68] Upon its determination of the current owners of the property, the court may issue a judgment appointing an administrator to correctly record a new deed.[69]

Essentially, this law creates a less burdensome mechanism for clearing title than the wholesale opening or reopening of an estate in probate (or more than one estate, if there are multiple generations of heirs). Section 1801 allows an heir to clear title by asking a probate judge to declare them the current owner of the property and issue a new deed. Data in Vermont shows that there is a steady trickle of these cases every year.[70]

Vermont’s Title Standards: Community Tools to Clear Title

There are additional methods for clearing title common to real estate practice in Vermont. Section 13 of Vermont’s Title Standards provides for acceptable practices to correct clouded title. Established and adopted by the Vermont Bar Association Board of Bar Managers in 1999, the Title Standards are managed by a committee of real estate lawyers[71] and reviewed every two years.[72] The standards are based on court cases, laws, and commonly accepted practices, and they guide real estate practitioners across the state.[73]

Section 13.1, “Conveyance by Heirs’ Deed,” Section 13.2, “Conveyance by Devisees in Lieu of Probate Administration,” and Section 13.3, “Omitted Real Estate or Faulty Description of Closed Real Estate,” all deal with title issues arising from a defective or absent probate process.[74] All support the validity of a deed created by the rightful heirs to establish a marketable title.

> Section 13.1 states:
>
> ***A deed by heirs****, whether in warranty or quitclaim form, shall be effective to pass title to real estate where the same has been of record for a period of at least fifteen years; or, if the deed is of record for less than 15 years, it is established by corroborative evidence that (a) the deceased died without a will; and (b) the signatories of said deed are all of the decedent’s heirs-at-law. Title to the conveyed property may remain subject to unexpired claims against the decedent, the estate, or estate tax liens.*[75]

This standard underwent significant revision in 2024, adding the provision for a shortened timeline conditioned on evidence that the deceased died without a will. The comments on this rule show that it is based primarily on case law interpreting intestate law.[76] Previously, the 15-year mark was established because most issues would have been resolved or expired within that time frame (e.g. 15 years would extend beyond the statute of limitations for a tax lien).[77] Therefore, the drafters added language to clarify that this type of deed may still be burdened by outstanding debts.[78] Further comment explains that evidence of heir-at-law[79] status can be shown by probate or public records or by affidavit by someone with close, personal knowledge of the deceased’s family history.[80]

> Section 13.2 states:
>
> ***A deed by the devisees*** *named in a will that has been proved and allowed in a Vermont probate court, whether in warranty or quitclaim form, shall be effective to pass title to real estate where the same has been of record for a period of at least fifteen years.*

This standard was included to deal with a problem particular to the northeast portion of the state, one of the state’s most rural and impoverished areas. Real estate lawyers practicing in this area found that there were numerous instances where an estate was opened but the probate process had been abandoned because it became either too costly or too lengthy.[81] This title standard ensures that these heirs of record can clear title without having to return to the probate process, in the case where a will had previously been accepted by a Vermont court.

Section 13.3 states:

When an estate has been administered in a Vermont probate court and a final decree of distribution recorded in the land records, no reopening of the estate shall be required to convey an interest of the decedent merely because: (1) all of the real estate of the decedent or interest therein was not included in the inventory or in the decree of distribution, or (2) the description of such estate or interest in the inventory or decree was inaccurate, or (3) any other error or omission has occurred to cause such estate or interest to be misdescribed in the probate record. ***A deed by heirs or devisees****, whether in warranty or quitclaim form, shall be effective to pass title to real estate if the existing probate record enables a clear and unambiguous determination that the grantors would be the persons entitled to decree of such estate or interest if the estate were reopened to correct the error or include the omitted property.*[82]

This catch-all title standard allows for a process outside of probate by which a coordinated action of the heirs, independent of any formal court process, can effectively clear title. Depending on the degree of fractionalization, these methods of reforming a deed may still be cumbersome. All co-owners must agree to create and record a deed, and there must be accompanying supporting evidence of their status as property owners. However, these actions require no further formal action from a court and, as such, provide a more cost-effective means of clearing title, particularly in cases where the heirs are known and few in number.

VII. Conclusion

Vermont does not have a panacea for minimizing heirs' property. However, the state does have a cultural, legal, and policy landscape which supports families and helps prevent and resolve the clouded title issues that accompany heirs' property. First, Vermont property owners can pass their property to their heirs using special deeds, which enable heirs to avoid the expensive probate process while claiming clear title to their real property. Second, property owners recognize and clear any problems with their title to access tax relief programs that require clear title. These programs offer substantial relief in a state with statistically high property taxes—a large incentive to clear title. Finally, state law and real estate standards offer common sense tools to resolve the issue when a clouded title problem is recognized.

These elements do not work in isolation. Vermont's unique small town government structure and high rate of lawyers per capita certainly help reduce clouded title issues. Nonetheless, as this issue brief shows, Vermont demonstrates that access to legal services, tools to avoid the probate process altogether, incentives to clear title and inexpensive ways to do it can serve as key strategies to minimize heirs' property and the problems associated with it. These strategies could serve as examples for other states where heirs' property is more prevalent.

Endnotes

1 Different geographies use different terms to describe clouded title; another term used is *tangled title*. Clouded title can refer to any situation where the deed to real property is not in the name of the actual owner(s). This resource outlines Vermont's cultural attributes and policies that help those with clouded title (including heirs' property owners) prevent and resolve the issues that arise when property owners don't have clear title.

2 Interview with Ryan Thomson, October 18, 2024 (notes on file with author); *see generally* Ryan Thomson & Conner Bailey, *Identifying Heirs' Property: Extent and Value Across the South and Appalachia*, 38 J. Rural Soc. Scis. 29, (2023), https://perma.cc/T75P-FCVR.

3 Mavis Gragg, *Practically Speaking: Strategies to Prevent and Resolve Heirs' Property Legal Issues*, *in* Heirs' Property and the Uniform Partition of Heirs Property Act: Challenges, Solutions, and Historic Reform 136, 137 (Thomas W. Mitchell & Erica Powers, eds., 2022), https://ebookcentral.proquest.com/lib/vls-ebooks/detail.action?docID=7293960.

4 Natasha Moodie, et. al., Hous Assistance Council, A Methodological Approach to Estimate Residential Heirs' Property in the United States 4 (2023), https://perma.cc/P3QV-AHPT.

5 Cassandra Johnson Gaither, *Appalachia's "Big White Ghettos": Exploring the Role of Heirs' Property in the Reproduction of Housing Vulnerability in Eastern Kentucky*, *in* Heirs' Property and Land Fractionation: Fostering Stable Ownership to Prevent Land Loss and Abandonment 49, 49 (Cassandra Johnson Gaither et al. eds., U.S. Forest Serv., e-Gen. Tech. Rep. SRS-244, 2019), https://perma.cc/WC3V-EJBL.

6 Thomas W. Mitchell, *The Uniform Partition of Heirs Property Act: Advancing Social and Racial Justice Through Historic Property Law Reform*, *in* Heirs' Property and the Uniform Partition of Heirs Property Act: Challenges, Solutions, and Historic Reform 34, at 4 (Thomas W. Mitchell & Erica Powers, eds., 2022), https://ebookcentral.proquest.com/lib/vls-ebooks/detail.action?docID=7293960.38.

7 Moodie, *supra* note 4, at 4.

8 Gaither, *supra* note 5, at 49.

9 Moodie, *supra* note 4, at 4.

10 Am. Bar Ass'n, Profile of the Legal Profession (2020), https://www.americanbar.org/content/dam/aba/administrative/news/2020/07/potlp2020.pdf at 7.

11 *Local Government Records*, Vt. Sec'y of State, https://perma.cc/4TFM-DX7V (last visited July 8, 2025).

12 Will Breland, *Acres of Distrust: Heirs Property, the Law's Role in Sowing Suspicion Among Americans and How Lawyers Can Help Curb Black Land Loss*, 28 Geo. J. on Poverty L. & Pol'y 377, 401 (2021), https://perma.cc/2CUV-3LYC; *see also* Raphael Bostic, *Heirs' Property in the Southeast: A Community Development Perspective*, *in* Heirs' Property and Land Fractionation: Fostering Stable Ownership to Prevent Land Loss and Abandonment vii, viii ("The first challenge [in addressing heirs property] is prevention, or estate planning that provides a stable path for succession and transfer of wealth.") (Cassandra Johnson Gaither et al. eds., U.S. Forest Serv., e-Gen. Tech. Rep. SRS-244, 2019), https://perma.cc/T378-KW4H.

13 American Bar Association, *supra* note 12, https://www.americanbar.org/content/dam/aba/administrative/news/2020/07/potlp2020.pdf.

14 *Id.*

15 *Id.*

16 Breland, *supra* note 14, at 401.

17 *Vermont*, U.S. Census Bureau, https://perma.cc/X3SV-LPAR (last visited July 8, 2025).

18 Vermont Secretary of State, *supra* note 13.

19 Vt. Stat. Ann. tit. 27, § 341.

20 Vermont League of Cities and Towns, https://www.vlct.org/resource-library/vermont-elected-town-officers.

21 Interview with James Knapp (Aug. 02, 2024) (notes on file with author).

22 Gragg, *supra* note 3, at 139.

23 Gragg, *supra* note 3, at 151.

24 John C. Newman & Ron R. Morgan, *Tax and Medicaid Planning Aspects of the Standard Vermont Estate Plan – 2007 Update*, Vt. Bar J., Winter 2007/2008, at 28, 35, https://heinonline.org/HOL/P?h=hein.barjournals/vermntbj0033&i=184.

25 *Id.*

26 Gragg, *supra* note 3, at 145.

27 *See supra* note 24, at 28 (referencing their 2003 article which discussed this type of deed).

28 *See id.*

29 *See id.*

30 *See id.*

31 Heather K. Way, *Heirs' Property, Property Tax Relief, and the Further Undermining of Black and Latino Homeowners' Housing Stability*, *in* Heirs' Property and the Uniform Partition of Heirs Property Act: Challenges, Solutions, and Historic Reform 237, 173 (Thomas W. Mitchell & Erica Powers, eds., 2022), https://ebookcentral.proquest.com/lib/vls-ebooks/detail.action?docID=7293960. This recognition occurred considerably earlier than many other jurisdictions. *Id.* at 174.

32 *Id.* at 173.

33 *Id.*

34 *Id.*

35 Ayana Archie, *These Are the States with the Highest and Lowest Tax Burdens, a Report Says*, NPR (Mar. 30, 2023, 4:52 AM), https://perma.cc/7YRQ-SZB8.

36 Way, *supra* note 31, at 173.

37 Vt. Stat. Ann. tit. 32, § 5402(a); § 5410.

38 § 5401.

39 § 5410.

40 *Id.*

41 § 5410(g). *See* Property Tax Credit discussion below.

42 § 5410(d).

43 Way, *supra* note 31, at184 (citing Mississippi as an example of a state the requires all cotenants to sign for a homestead exemption).

44 1-3 Vt. Code R. § 101:1.5401(7).

45 § 101:1.5401(7)(e)(1).

46 *Property Tax Credit*, Vt. Dept. of Taxes, https://perma.cc/77XQ-YPYC (last visited July 8, 2025).

47 Way, *supra* note 31, at 173.

48 Vt. Stat. Ann. tit. 32, § 6061(4)(A).

49 § 6061(3)(A).

50 Vt. Dept. of Taxes, GB-1265, MyVTax Guide: How to File a Homestead Declaration or Homestead Declaration and Property Tax Credit Claim (rev. Mar. 2025), https://perma.cc/9BAP-HVCE.

51 *Property Tax Credit*, *supra* note 48.

52 Vt. Dept. of Taxes, IG-1264, Comparing Vermont Property Taxes to Peer States (rev. Oct. 2022), https://perma.cc/PN9V-J756.

53 *Id.*

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79 An heir-at-law is a person who inherits, or has a right of inheritance in, the property of a person who has died intestate. *See* State of Vt., 700-00002E, *List of Interested Persons* (2023), https://perma.cc/2D4C-CNQS.

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