

# Lost Inheritance

*Black Farmers Face an Uncertain Future  
without Heirs' Property Reforms*

Policy Brief

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## Highlights

Black farmers in the United States lost nearly 90 percent of their farmland during the 20th century. Researchers and advocates have identified the legal tangle known as heirs' property as a potential leading cause of this historical and ongoing loss of wealth. Heirs' property is land passed down through generations to multiple heirs without a clear legal title, and Black landowners have been disproportionately affected due to systemic racism in the United States. As a result, landowners underutilize otherwise productive farmland, have difficulty accessing federal loans and grants, and lose land to predatory buyers through sales forced on heirs who might have farmed it. The federal government has an obligation to help these landowners resolve title issues and improve their access to federal funding, which would support a new generation of Black farmers in rebuilding wealth for their families and communities.

## Black Farmers Lost the Majority of Their Land

Today, only 48,697 Black farms operate in the United States; 1.4 percent of all farmers are Black—1 in 72 farmers. Their farms total 4.7 million acres, about 0.5 percent of total US farmland. Much like at the turn of the 20th century, today, most Black farmers reside in the southern United States, with almost 90 percent of Black farmers in 12 states: Texas, Mississippi, Alabama, Louisiana, Georgia, South Carolina, Florida, North Carolina, Oklahoma, Virginia, Arkansas, and Tennessee.<sup>1</sup> Black-operated farms tend to be smaller and have smaller profits. Only 7 percent of all Black-operated farms have more than \$50,000 in sales, while a quarter of White-operated farms do. The product sales from Black-operated farms account for 0.4 percent of all agricultural sales (NASS 2019).

Numbers of Black farmers decreased significantly over the last 100 years. After the violence of slavery and sharecropping—and despite the continued racism of the Jim Crow era—Black farmers collectively pushed for landownership in the late 19th and early 20th centuries (Reynolds 2002). In 1920, at the peak of this advocacy, 925,708 Black farmers operated in the United States—one in seven farmers. Of those, 218,612 Black farmers owned around 15.5 million acres of land.<sup>2</sup> Most farmed in the south. The land and what was on it represented significant wealth—at that time, \$801 million (NASS 1920).<sup>3</sup>

While consolidation of farms affected all farmers, between 1920 and 1997, the number of Black farmers declined steeply, by 98 percent. In contrast, the number of White farmers declined by 66 percent during the same time (Wood and Gilbert 2000). In a previous analysis, the Union of Concerned Scientists (UCS) found that states with more consolidations lost more Black farmers than states that experienced less consolidation (Ferguson 2021).

Black farmers did not just exit the profession—they lost significant land and substantial wealth in the process. In the 17 states with the highest numbers of Black farmers, between 1920 and 1997, Black farmers lost 90 percent of their land, valued at \$326 billion in today's dollars. This estimate includes the value of the land and accounts for appreciation over time as well as the net income the land would provide (Francis et al. 2022).

What this estimate does not show is the value land can generate through reinvestment, including investment in family education. Nor does it account for other benefits of landownership, including its role in political capital, symbolic value as freedom and autonomy for Black households after centuries of enslavement, and worth as a place for the family to

gather (Mitchell 2000; Bownes and Zabawa 2019). The land's value also stretches beyond the household and into the community: it generates local taxes and, if used for agriculture, provides employment and locally grown food. Agricultural land can also be used to advance conservation goals. The estimate of \$326 billion, while important, is therefore incomplete and represents a severe underestimation of financial and other damage to Black farmers, their families, and their communities.

Researchers and others attributed much of the loss of farmland to a complex web of factors driven by structural racism in US society and in the federal government. Lloyd Wright, former director of civil rights at the US Department of Agriculture (USDA), called the agency “the last plantation” due to its history of discrimination against Black farmers, including preventing Black farmers from accessing loans and grants that would keep them on their land (Sewell 2021). Even though two lawsuits, commonly referred to as Pigford and Pigford II, required that Black farmers receive damages, in acknowledgement of race-based discrimination from 1981 to 1996, getting payments proved difficult (Farm Bill Law Enterprise 2022). Recent evidence points to a continued pattern of discriminatory practices (Equity Commission 2023). For instance, data analysis of USDA loan programs showed that only 36 percent of Black farmers who applied for loans received them, while 72 percent of White farmers did, demonstrating the need for immediate corrective action (Bustillo 2023).

One of the underappreciated causes of Black land and wealth loss is heirs' property, land passed through generations without a clear title. Heirs' property leads to underutilization of productive farmland, limited access to federal loans and grants (or no access at all), and loss of land to predatory buyers. The impact of heirs' property is so great that the USDA called it “the leading cause of Black involuntary land loss” (Harrington 2022).

## Heirs' Property Leads to Land and Wealth Loss

When a property owner dies without a will, property passes to an heir—or multiple heirs—hence the name heirs' property. Multiple heirs, known as “tenants in common” or “cotenants,” own undivided fractional interests in the property, as defined by each state's intestacy laws. Thus, these heirs are landowners without a clear title. This so-called “clouded” title signifies that there is no clear legal owner; only the ancestor who originally bought the land is identified in official paperwork. In many cases, heirs' property passes down through multiple generations with this clouded title, leaving a single property in the hands of many heirs—sometimes dozens or even hundreds. While some of the cotenants may live on the property, others may live in other counties or in different states. Any individual cotenant can sell their fractional interest in the property, but all cotenants must be involved in decisionmaking about the property. This creates a challenging situation to navigate across generations (Center for Agriculture and Food Systems, n.d.).

While causes of heirs' property are complex, many cases resulted from inequity and discrimination within the legal system in the United States. Landowners could not always access legal services for estate planning, particularly in rural areas. At the end of the 19th and beginning of the 20th century, few Black lawyers existed, if any, and White lawyers were hostile, especially in the South (Breland 2021). A landmark study estimated that in 1980, 81 percent of Black landowners did not have a will (ELF-US 1980). In other cases, Black families' experiences with the racist actions of the legal system may have directly prevented estate planning (Breland 2021). Some Black landowners believed their land would be better

protected without a will. Heirs' property tangles are sometimes therefore a consequence of the Black landowners' desire to protect their landownership (Breland 2021; Zabawa 1991).

Heirs' property can directly lead to land loss through forced partition sales. Since each cotenant owns a percentage of the whole property, rather than a defined part of the property, any of the cotenants can ask a court to force a sale to reclaim the value of their portion. This option attracts speculators, who can purchase a part of heirs' property from one of the cotenants and then force a sale in court. Partition by sale happens through an auction, resulting in the property being sold far below its market value. However, even though the sale lists the property at a lower value, owners who have low income, which is often the case, cannot afford to purchase the whole property. It is difficult to estimate how much land was lost to actual or threatened partition sales, as the threat of court tangles and associated fees has forced many cotenants to sell property in preemptive transactions (Mitchell 2005). Regardless of how such transactions occur, cotenants who have lived on and maintained the property—and often paid for improvements and property taxes—are forced off their land with only minimal payment.

In addition, researchers sometimes describe heirs' property as “dead capital,” indicating that its status as heirs' property prevents wealth-building and investment (Bailey et al. 2019). Due to the very real uncertainty regarding ownership, cotenants who live or farm on heirs' property may not want to invest in the land and improvements. The property's use, or full use, may be prevented because cotenants may not agree on how it should be used or whether the clouded title should be cleared. The clouded title also prevents access to federal loans and funding—including funding for farm conservation (Mitchell 2019).

Heirs' property's many consequences affect Black families (Dyer and Bailey 2008). However, since those consequences involve many different outcomes, it is unclear how much heirs' property and its different effects cumulatively contributed to Black farmer and landowner land loss during the 20th century—and how much it affects Black farmers now and will affect them in the future. Until very recently, heirs' property studies and case law were sparse, due to the invisibility of Black landowners to legal scholars (Mitchell 2005). Despite this, community-based organizations across states have gathered a wealth of evidence through their work with landowners to prevent land loss (Mitchell 2000; Mitchell 2005). Emerging evidence by social scientists points to the high prevalence of heirs' property among Black farmers and landowners in the US South.

## **Data Poses a Challenge to Estimating the Prevalence of Heirs' Property**

Over the last 50 years, most studies of heirs' property prevalence have featured a single county or multiple counties. Most studies are situated in the southern United States, but other communities are also affected (see Box 1). Some studies examine parcel tax records and deeds obtained in person in county offices (ELF-US 1980; Dyer, Bailey, and Van Tran 2008; Georgia Appleseed 2013). This work is often complex and time consuming. For instance, Georgia Appleseed (2013) assessed heirs' property in five Georgia counties using the abovementioned records and disclosed that the study was made possible because of “hundreds of lawyers and paraprofessionals throughout Georgia who donated thousands of hours of time.” Such studies illustrate the enormous effort organizations must undertake to quantify heirs' property.

## BOX 1. Heirs' Property Is Prevalent across Urban and Rural Communities

Heirs' property affects lower-income urban and rural communities in the United States, although research is limited. For instance, in a small sample study among low-income White communities in Appalachia, 24 percent of landowners had some portion of their land in heirs' property (Deaton 2005). Johnson Gaither (2017) reproduced the Computer-Assisted Mass Appraisal study (Pippin, Jones, and Johnson Gaither 2017) in eight counties in eastern Kentucky and found that county heirs' property estimates ranged widely among counties with between 0.99 percent and 15.19 percent of parcels in different counties identified as potential heirs' property.

Research also estimates heirs' property in Texas counties along the US-Mexico border in "colonias," which are low-income housing developments with limited access to utilities. Although the overall rates of heirs' property were less than 1 percent, heirs' property parcels were spatially aggregated in highly vulnerable areas that already have poor housing conditions and infrastructure, showing that heirs' property adds another layer of complexity to poverty. The author noted that the study likely underestimates heirs' property in this area, due to the study's methodological limitations (Johnson Gaither 2017).

Heirs' property is prevalent in urban areas as well. In Philadelphia, 10,407 parcels (2.3 percent of residential properties owned by individuals) were determined to be heirs' property using a novel methodology that included examination of death records. Heirs' property was most prevalent in predominantly Black neighborhoods (Pew Charitable Trusts 2021).

Finally, a parallel to heirs' property has unfolded on tribal lands in the United States. In the 19th century, racist federal policies sought to assimilate Indigenous communities, in part through forced land division and individual ownership. Communal tribal lands were thus divided into individual lots, which were then further split among heirs after the death of the original owner, as dictated by law. After several generations, hundreds of heirs could collectively own a single parcel of land—a situation akin to heirs' property issues in other communities, with similar consequences (Kunesh, 2019).

Different communities are affected by heirs' property across the United States. Heirs' property solutions therefore need to acknowledge the different lived realities of these communities and be sensitive to local contexts.

More recently, emerging research strategies have employed large datasets called Computer-Assisted Mass Appraisal (CAMA) data, which are used by local governments to collect property appraisal information for tax purposes (Pippin, Jones, and Johnson Gaither 2017; Federal Reserve Bank of Atlanta 2016). CAMA data list information about the parcel, including possible indicators of heirs' property, as well as geographical indicators (Pippin, Jones, and Johnson Gaither 2017; Jones and Pippin 2019). Mass data may be difficult to access, and different private sector CAMA data vendors operate in different counties, making data acquisition and comparison across counties more difficult.<sup>4</sup>

Heirs' property documentation across counties is therefore piecemeal and difficult to compare, as most studies utilize different methodologies and consider only a subset of counties. Dougherty County in Georgia illustrates the issue. Georgia Appleseed (2013) identified 472 parcels in Dougherty County as heirs' property, roughly 0.5 percent of all parcels in the county, with an estimated size of 1,551 acres and a value of \$8.9 million. Pippin, Jones, and Johnson Gaither (2017) identified 9,386 properties, or 25 percent of properties in the same county, as potential heirs' properties. The total area of those properties was 10,192 acres with a valuation of \$649 million. Differences in methodologies—using in-person examination of tax records and deeds in county offices, or heirs' property indicators in CAMA data—produce very different results.

A key barrier to understanding heirs' property prevalence lies in the nomenclature. Parcels are not clearly marked as heirs' property in records, and nomenclature differs between states or even among counties (Zabawa and Woods 2021). For this reason, researchers who use mass data instead employ indicators to determine parcels that are likely heirs' property. In the abovementioned research, Pippin, Jones, and Johnson Gaither (2017) identified the following indicators of heirs' property: parcels that are owned by “natural people” (not businesses, organizations, governments, etc.), have no tax preferential status, and have not been transferred for the last 30 years. Building upon this approach, Thomson and Bailey (2023) introduced an index that combines four indicators of heirs' property. These approaches identify possible heirs' properties, but they need to be validated with a dataset with actual heirs' properties.

Despite these discrepancies, Bailey et al. (2019) aggregate data from single- or multicounty studies across several states in the southeastern United States and extrapolate them across the region. They estimate that 1.6 million acres of land valued at \$6.6 billion were locked in heirs' property across the 365 counties of the 10-state Black Belt.<sup>5</sup> While the authors acknowledge this as a likely underestimation, their findings speak to the severity of heirs' property impacts on local families and communities. A new study confirms this conclusion by identifying potential heirs' property in 496,994 parcels across 11 states in the South. These parcels span 5.3 million acres and are valued at nearly \$42 billion (Thomson and Bailey 2023).

## **How Many Black Farmers Have Land in Heirs' Property?**

UCS sought to analyze the scale and economic impact of heirs' property for Black farmers, but this task is extremely challenging. UCS reached out to experts on heirs' property, including those at community-based organizations and universities, while reviewing key studies on the subject. The consensus among those consulted and the research indicate no authoritative figure exists on the incidence of heirs' property among Black farmers and landowners.

Most heirs' property studies referenced above do not include data on agricultural land. It can be misleading to use county averages of numbers of parcels locked in heirs' property, as rural and urban parcels differ in parcel size and value. For instance, in Macon County, Alabama, 43 percent of identified heirs' property parcels were in urban areas. In this research study, urban heirs' property parcels tended to be smaller, but the land was valued at a higher price (Dyer, Bailey, and Van Tran 2008). Reporting on the differences between urban and rural heirs' property parcels is not typical in other studies; therefore, it is difficult to generalize county-level data for all rural land.

In addition, most studies focus on parcel-level data, rather than owner-level data. These data do not include demographics, and so we are not able to determine how many parcels are owned by Black farmers or landowners.

A few studies focus on landowner data rather than parcel data, although all of them list aggregated property details as well. The historic Emergency Land Fund assessed heirs' property prevalence among Black rural landowners in 10 counties across five states—two each in Alabama, Louisiana, Mississippi, South Carolina, and Tennessee (ELF-US 1980). On average, 27 percent of the parcels were in heirs' property, with county-level numbers ranging between 9 percent and 36 percent. The total heirs' property parcels amounted to 41 percent of total land acreage across the 10 counties. Over half of the heirs' property was in agricultural use (19 percent commercial farms, 17 percent noncommercial farms, and 18 percent agricultural leases), with 35 percent of the parcels being farmed at that time. Among non-heirs' property parcels, 47 percent were farmed. Heirs' property parcels were less likely to be used productively: 20 percent of heirs' property parcels and 14 percent of non-heirs' property parcels were not in use.

More recently, Baba, Zabawa, and Zekeri (2018) interviewed 80 Black landowners in seven Alabama counties about their land and found similar numbers. Over a third of interviewed landowners (36.3 percent) had all their land in heirs' property, and an additional 18.7 percent had some of their land in heirs' property. More than half of heirs' property owners used their land for agriculture, including livestock grazing, and another 16.4 percent used the land for timber. Heirs' property land was less likely to be used—almost half of heirs' property parcels were used minimally or not at all, while among titled property parcels, only 13.9 percent were used minimally or not at all. On the other hand, nearly half of titled property was used fully or nearly fully, while only 13.8 percent of heirs' property was. Heirs' property owners were also less likely to invest in the land: 58 percent invested less than \$10,000, compared to 16.7 percent of owners with titles. Among titled property owners, 44.2 percent invested more than \$500,000 into the land, while only 9.9 percent of heirs' property owners invested as much.

In another recent study, Copeland and Buchanan (2019) surveyed 967 current and former Black farmers across the United States and found that 35.3 percent had at least some portion of their land in heirs' property. Among farmers with land in heirs' property, 29 percent had more than a half of their farming operations on heirs' property.

While we must be careful in generalizing these studies, some of which are place based, the numbers provide a sobering potential extrapolation regarding the amount of Black farmers' land in heirs' property. In the 2017 Census of Agriculture, 23,761 Black farmers identified as full owners of their farmland and another 8,410 farmers owned some of their farmland and leased additional acreage. The owned farmland totaled nearly 2.9 million acres (NASS 2019). If



Copeland and Buchanan's (2019) findings apply nationally and the values are similar for current and former farmers, they could indicate that over 10,000 Black farmers who fully or partially own their land may be experiencing heirs' property issues.<sup>6</sup>

There are also Black landowners who do not use their land for farming—and those with heirs' property parcels are more likely not to use the land at all. Resolving clouded titles could help farmers expand their agricultural operations and help nonfarmers begin farming through access to federal loans and conservation programs.

Estate planning services are also key to preventing future heirs' property entanglements. Understanding current trends and barriers to estate planning among Black farmers and landowners and creating programs that increase access to and utilization of estate planning services can prevent future occurrence of heirs' property.

## Policy Recommendations

We note that first and foremost, the policies proposed here will be successful only if the USDA consults those who have been or currently are affected by heirs' property. The USDA should also consult with community-based organizations and scholars with deep engagement in the topic. The following policy recommendations are only foundational—they must be informed by lived experience, frequently evaluated, and adjusted to serve Black farmers and landowners effectively.

We recommend the following actions by Congress:

**Provide funding directly to Black farmers and landowners to resolve heirs' property issues.** Experts have expressed doubts regarding the effectiveness of a new USDA relending program to resolve heirs' property tangles, since Black farmers and landowners may be hesitant to apply for loans due to repayment concerns. Heirs' property owners tend to have low incomes (Pippin, Jones, and Johnson Gaither 2017). Congress should therefore provide accessible funding directly to heirs' property landowners in the form of grants. Any loan-based program should be coupled with loan forgiveness provisions. One such option could operate through a new iteration of the Debt for Nature program, which guaranteed loan cancellation of a portion of the loan if the landowner signs a contract for conservation (FSA 2015).

**Require the USDA to provide a nonburdensome path to establishing a farm number.** Landowners and farmers with land in heirs' property have limited access to loans offered by the Farm Service Agency (FSA) and Rural Development, as well as cost-share programs offered by the Natural Resources Conservation Service (NRCS) and Forest Service. While the 2018 food and farm bill provided an alternative path to receiving a farm number (FSA 2022), which is required to access these programs, the path toward farm number establishment may be too burdensome. Furthermore, farmers and landowners may not be aware that they are eligible for a farm number, and local FSA agents may lack the motivation to administer this guidance due to prejudice. The USDA should evaluate the success of this effort to provide farm numbers to heirs' property owners, assess the barriers to access, and design implementation that responds to farmers' needs. The USDA should implement the recommendations in the Equity Commission *Interim Report* (2023) to promote diversity and inclusion at the FSA, including having rigorous oversight of its activities, decisions, and service to stakeholders.

Building trust between the USDA and Black farmers and landowners constitutes an integral part of heirs' property resolution.

**Demand equity in the administration of the Environmental Quality Incentives Program (EQIP) and the Conservation Stewardship Program (CSP) for farmers with heirs' property.** The USDA Equity Commission alleges that heirs' property producers have historically faced difficulties when accessing funds from the EQIP and the CSP because of competition with other producers who do not have clouded titles. In line with the committee recommendations, the NRCS should establish an EQIP and CSP pool of funding specifically for heirs' property producers (Equity Commission 2023).

**Expand access to housing programs operated by the USDA.** This expansion should include single-family-housing direct home loans and a guaranteed loan program, as well as a home repair program. These options would allow cotenants residing on heirs' property to maintain adequate housing and therefore halt the compounding economic disadvantages that cascade upon people with clouded titles.

**Fund community-based organizations that provide mediation and legal services for Black farmers and landowners.** Community-based organizations and Cooperative Extension programs at 1890 Land-Grant Institutions have long-standing, trusting relationships with the farmers and landowners in their communities (see Box 2). The Regional Heirs Property and Mediation Center at the Federation of Southern Cooperatives can serve as an example. Many such organizations have decades of experience supporting Black landowners and farmers in their fight against land loss. Dedicated multiyear funding to such organizations would enable continued and expanded services, including direct legal representation in title resolution actions, estate planning, family mediation, and legal advice. With increased funding, the successful model of these organizations can be replicated in other communities with high rates of heirs' property. These legal services and outreach activities should also include city, county, and other municipal authorities. In many cases, elected and appointed officials—including city and county commissioners, judges, mayors, and tax and revenue commissioners—do not know the full impact of heirs' property on their communities or current applied legislation, including the Uniform Partition of Heirs Property Act (UPHPA).

**Fund interdisciplinary research on Black land loss, including studies that assess the scale of heirs' property.** Funding should be allocated to research how heirs' property is labeled and to streamline data collection and analysis. However, such research needs to include protections to keep heirs' property owners from being easily identifiable to speculators who can force partition sales. Additionally, research needs to quantify the impact of Black land loss on families and communities, for an understanding of the scale of reparations needed to address past harms. Research and extension funding for heirs' property should be directed to 1890 Land-Grant Institutions due to their history of collaboration toward sustainable rural communities, including expertise in research and outreach (Pennick and Rainge 2019). Such funding should also be provided to promote the leadership of experts in food and agriculture who are Black, Indigenous, and people of color (BIPOC).

## BOX 2. Resolving Heirs' Property through the Power of Community-Based Organizations

Communities that face heirs' property issues are not standing by helplessly as federal resolutions are developed. For several decades, many community-based organizations have responded to this emergency by providing essential services.

The Federation of Southern Cooperatives/Land Assistance Fund has served Black farmers and landowners for over 56 years, with the goal of reversing the trend of Black land ownership loss across the southern United States. Its Regional Heirs Property and Mediation Center opened in 2017 to serve families in the Black Belt through mediation services and legal aid (The Federation of Southern Cooperatives, n.d.).

The Center for Heirs' Property Preservation was founded in 2002 to serve families in South Carolina. It seeks to support Black property ownership by preventing loss and promoting sustainable economic development to keep wealth in Black communities. Its services include heirs' property prevention through help with the drafting of wills, free legal advice and educational webinars, and title resolution. In 2021, the center helped draft 169 wills, provided legal advice to 515 people, and resolved title issues for 17 landowners (Center for Heirs' Property Preservation 2021).

Many other organizations offer similar support and assistance, including the Land Loss Prevention Project and Georgia Heirs Property Law Center (incubated by Georgia Appleseed Center for Law & Justice).

In addition, universities provide important research and extension services to their communities. For instance, the nationwide Socially Disadvantaged Farmers and Ranchers Policy Research Center (the Policy Center) at Alcorn State University has conducted research to answer a magnitude of heirs' property questions, including how it is classified from county to county, what impact farm bill policy has, and how effective the Uniform Partition of Heirs Property Act is. From data-backed research, the Policy Center creates policy recommendations for upcoming farm bills and the agriculture committees in the US Congress.

These organizations work diligently to provide services to Black farmers and support sustainable Black communities.

**Establish an Office of Heirs' Property Education, Research, and Outreach.** Across the country, local USDA offices (including Forest Service, FSA, NRCS, and Rural Development) are taking various actions on heirs' property. To ensure that these services are coordinated, an Office of Heirs' Property Education, Research, and Outreach should be established in the USDA secretary's office, or in the Office of the Assistant Secretary for Civil Rights.

**Provide incentives to states that have adopted UHPA.** The Uniform Partition of Heirs' Property Act represents a state-level policy solution that addresses forced partition sales. UHPA provides legal protections for tenants in common, including the right of first refusal, which allows them to make the first offer on the property. The act also requires that the property sell for a reasonable market value. To date, 23 states have enacted this law, including many states in the southeastern United States (including Alabama, Georgia, Mississippi, and South Carolina) and legislatures in five states have introduced it (Uniform Law Commission, n.d.). Farmers in states that have enacted UHPA face less-burdensome requirements to obtain farm numbers at the FSA and therefore may be able to access federal grants more easily.

**Facilitate the entry of new BIPOC farmers into the farming profession through funding.** Given the historic injustices perpetrated by the federal government and legal systems, as well as the history of violence toward and intimidation of Black landowners, the USDA should provide additional reparative payments to beginning and continuing Black farmers as well as support BIPOC farmers overall. BIPOC farmers still encounter difficulties accessing and keeping land, financing their operations, and receiving appropriate technical assistance. UCS has provided thorough recommendations regarding this for the federal government, industry, and philanthropies, to restore the number of BIPOC farmers and landowners in their communities (UCS and HEAL 2020).

## **Conclusion: Resolving Heirs' Property and Addressing Historic Harms**

Over the last 100 years, Black farmers were forced off their land, losing an estimated \$326 billion in wealth (Francis et al. 2022). The USDA describes heirs' property as one of the leading causes of this land loss. Heirs' property continues to be prevalent in Black communities, with recent studies estimating that over a third of Black farmers and half of Black landowners may be affected (Copeland and Buchanan 2019; Baba, Zabawa, and Zekeri 2018). However, existing research is insufficient to understand heirs' property prevalence across the country and to quantify the contribution of heirs' property to land loss. Given the importance of this issue in preventing the further undermining of wealth-building for Black farmers and their communities, Congress should prioritize research on heirs' property, including legal case law research, to better understand and reverse the causes of this complex issue.

Due to its own significant contributions to active discrimination against Black farmers, the federal government needs to resolve and prevent heirs' property issues. This can be done by allocating funds directly to Black farmers and landowners, as well as to community-based organizations that provide a range of services, including estate planning. The federal government should also make its programs, including conservation and housing programs, accessible to heirs' property landowners. These steps cannot be taken without addressing historic injustices within the USDA and particularly in the FSA, which oversees delivery of many of these programs.

While lost land cannot be returned, reparative payments should be provided to Black farmers and landowners who experienced discrimination in the past—and barriers must be removed for new Black farmers interested in entering the profession. Only with these measures can the federal government right the historic wrongs committed against Black communities and support equitable food systems.

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## **ENDNOTES**

1. The order of states is based on the number of Black farmers from highest to lowest.
2. This is an estimate calculated using the total acreage of farms fully or partially owned by all farmers who were Black, Indigenous, and People of Color (BIPOC) in 1920 and the proportion of Black farm owners among BIPOC farm owners.
3. The value would be \$12.5 billion (inflation adjusted) in 2023, not equivalent to the actual appreciation of value of land and buildings over time.
4. For instance, Tennessee counties are serviced by three vendors, while North Carolina counties are divided among 14 vendors (Pippin, Jones, and Johnson Gaither 2017).

5. Bailey et al. (2019) define “Black Belt counties” as counties with a 25 percent or more African American population in Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia.
6. Copeland and Buchanan (2019) included both former and current farmers and do not state whether there is a difference between the two groups in terms of having land in heirs’ property.

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