A Summary of Heirs Property Legislation in the 2018 Farm Bill

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“land rich and cash poor”

- Since 1910, the impact of heirs property on the loss of black farmland has been one of the most critical problems confronting black farmers and landowners in the Black Belt region.
Key Historical Events

- Black farmland ownership, which peaked in 1910 at 15 million acres, has decreased to less than 3 million acres today.


- In 1980, the Federation of Southern Cooperatives/ Land Assistance Fund was commissioned by Congress to conduct a study titled, “The Impact of Heir Property on Black Land Tenure in theSoutheastern Region of the United States”. Over 40 years of research and scholarly articles followed.
• In **2005**, Farm Service Agency awarded the **Federation of Southern Cooperatives/ Land Assistance Fund** and the Center for Heirs Property Preservation competitive research grants focused on the heirs property problem.

• In **2006**, the **Heirs' Property Retention Coalition (HPRC)** was formed as an organization of lawyers, advocates, and academics heavily involved in litigation, legislative reform, and/or scholarly study related to **heirs' property**, and in particular to the preservation of **heirs' property** within low income African-American communities. The **Federation of Southern Cooperatives/ Land Assistance Fund** was a founding member.

• In **2010**, the Uniform Partition of Heirs Property Act was introduced.

• In **2017**, the **Federation of Southern Cooperatives/ Land Assistance Fund** was awarded a research grant with the Socially Disadvantaged Farmers and Ranchers Policy Research Center at Alcorn State University to develop farm bill policy to address heirs property and black land loss.
The Fair Access for Farmers and Ranchers Act of 2018

- The Fair Access for Farmers and Ranchers Act of 2018, was introduced in the summer of 2018 in the U.S. Senate by Senator Doug Jones (D-AL) and co-sponsored by Senator Tim Scott (R-SC).
- A companion bill was introduced in House of Representatives by Representative Marcia Fudge (D-OH) and co-sponsored by Representative Sanford Bishop (D-GA) and Representative Alma Adams (D-NC).
Socially Disadvantaged Farmers and Ranchers (SDFR)

- An estimated 60% of their farms and ranches are family owned as heirs property.
Title V - Credit

• Section 5104 – RELENDING PROGRAM TO RESOLVE OWNERSHIP AND SUCCESSION ON FARMLAND – Pilot Loan Projects for relending to assist heirs with undivided ownership.
Section 5104: What’s really in it?

• Authorizes Farm Service Agency (FSA) to loan funds to qualified intermediaries to relend to individuals and entities seeking to resolve heirs property issues and obtain clear title to farmland.

• What is an eligible entity? Cooperatives, Credit Unions, and Nonprofits that meet 3 requirements.

• What are eligible purposes? Relending by eligible entities for projects that assist heirs to resolve ownership and succession issues.

• Provides authorization for an appropriation of up to $10 million annually.
Section 5104: What’s really in it?

• Preference - Entities with not less than 10 years of experience working with socially disadvantaged farmers and ranchers, and who can operate program in states with Uniform Partition of Heirs Property Laws in effect.

• Loan Terms and Conditions – Loan interest rate at which intermediaries may borrow funds will be determined by the Secretary. Rates must be fully disclosed to ultimate borrowers.

• Succession Plan Required for Borrowers – Cost of succession plan and other associated legal and closing cost can be included in loan.

• Reporting on Program Outcomes Required Within 1 year
• **Section 12607 – Farmland Ownership Data Collection** - Includes a new data initiative on Land Access and Farmland Ownership to ensure that policymakers and the public have access to important trend data on farmland ownership, tenure, transition, barriers to entry, profitability and viability of beginning and SD farmers.

• **Section 12615 – Eligibility for Operators on Heirs Property Land to Obtain A Farm Number** - Includes important changes to allow historically underserved farmers to access USDA farm programs, even if they are operating on “heirs property” and cannot prove ownership of their farm.
Section 12615: What’s really in it?

• **ELIGIBLE DOCUMENTATION**
  
  • If you are in a state with the Uniform Partition of Heirs Property Act:
    
    • A court order verifying that the land meets the definition of heirs property
    
    • Certification from recorder of deeds that landowner is deceased and 1 heir has initiated a court proceeding
  
  • If you are NOT in a state with the Uniform Partition of Heirs Property Act:
    
    • Tenancy-in-common Agreement approved by majority of owners
    
    • Tax returns of the farm operator for the 5 preceding years
    
    • Self Certification of control of the land
    
    • Any other documentation identified by the Secretary
One last thing….Mediation

- Most heirs property issues are family disagreements.
- USDA’s Agricultural Mediation Program has been expanded to include Farm Transitions.
- Check mediation services in your state.
Questions?

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