

The Honorable William C. Smith, Jr,  
Chair, Senate Judicial Proceedings  
Miller Senate Office Building, 2 East Wing  
Annapolis, MD 21401

RE: SB 0092 - Favorable

Dear Chair Smith and Committee Members,

Thank you for holding this public hearing on the Maryland Uniform Partition of Heirs Property Act (“UPHPA”), Senate Bill Number 92. The undersigned members of the Maryland Heirs Property Coalition write in strong support of passage of the Act. We share a concern about the ways in which existing partition law can be used to unfairly deprive underprivileged property owners of generational family real estate wealth. This issue primarily impacts African American and other poor families who inherit property through intestate succession, or inheritance without a will, but it is not limited by race, ethnicity, class, or gender. Protecting heirs property promotes conservation of forests and ecologically responsible farmland management by promoting the relationship between economic benefit, land retention, and family legacy on the one hand and sustainable land use on the other hand. It unlocks educational and financial resources to help heirs property owners protect, cultivate, and economically benefit from their land, with important collateral benefits to society at large.

Current law does not provide adequate protection for tenants-in-common or the land assets they own. Heirs property is a class of tenancies-in-common. Under Maryland partition laws, any tenant in common can file a partition action with the court. Speculators are able to target tenancy-in-common property, exploit the law to force unwilling sellers to leave their land, and take advantage of the economic incentives attached to the property. Court-ordered partition sales often result in below-market sales of property, and speculators are able to flip or develop the property, solely to their own financial benefit. The generational wealth in the property is shifted from the original family owners to the speculator.

The UPHPA provides common sense protection for owners of tenancy-in-common property, and creates conditions whereby these owners can generate additional wealth from their land – all while preserving the right of any co-owner to extinguish his, her, or their own interest in the property and receive an equitable distribution of its fair market value. The UPHPA puts specific guidelines in place that allow any co-tenant the right to buy out a co-tenant that requests a partition by sale of the property, and, if the property must be sold, requires a disinterested broker sell the property on the open market at its fair market value, as assessed by a court-ordered independent appraisal. Either way, the title to the property becomes clear, possibly for the first time in generations.

In addition, enacting the UPHPA will enable Maryland property owners to fully utilize their land, positively benefitting both the owners and the State. Because each tenant-in-common owns a proportional share of the property, every co-tenant must agree on major decisions affecting the land – including using the property as collateral for grants or loans, and permitting resources to be harvested from the land. This problem is exacerbated with tenancy-in-common property – particularly heirs

property – where there is lack of clear title to the property, as is often the case with property transferred without a will. The UPHPA, however, provides avenues for clarifying titles, and otherwise unlocks access to critical resources and income generating programs. Pursuant to the 2018 Farm Bill, if Maryland enacts the UPHPA, owners of heirs property automatically qualify for a farm number, which provides access to a range of USDA programs, including lending and disaster relief programs. Typically, USDA Programs require proof of ownership and control of the land to obtain a farm number. Maryland would also be given priority consideration for a legal assistance fund that allocates to certain organizations that help resolve title problems. Clarifying title would also make income available to property owners willing to implement certain conservation practices on their land. For example, owners can qualify for services that pay for waterfront buffers, or owners can be paid for putting their land under a conservation easement. The UPHPA thus enables tenants-in-common to maximize the value and use of their property.

We respectfully request that the Maryland General Assembly enact the UPHPA. This action will add our great state to the other eighteen states that have had the wisdom to do so. This is a critical protection to ensure Maryland property owners can remain on their land and have access to resources to protect and develop that land – land which, in often cases, their ancestors have stewarded for generations. Quite simply, the UPHPA ensures that the interests of all owners of tenancy-in-common property are protected and removes the incentives for speculators (or sometimes even co-owners) to poach property at a fraction of its cost. We hope you will recognize the tremendous positive impact the UPHPA will have on Maryland’s citizens and its natural resources, and enact the UPHPA in Maryland.

We thank you all for your time and your attention to this important matter.

Very sincerely,

Chesapeake Conservancy  
Chesapeake Conservation Partnership  
Eastern Shore Land Conservancy  
Forever Maryland  
Lower Shore Land Trust  
Maryland Environmental Trust  
ShoreRivers  
Daniel Rider, Landowner, Dorchester County  
Lisetta Silvestri, Alumna of the University of Maryland Francis King Carey School of Law

CC: Senator Malcolm Augustine