



Louisiana
APPLESEED

FREE GUIDE

Revised 2024

PROTECT YOUR PROPERTY

Heirs' Property in Louisiana



How homeowners can **build their
wealth and protect their assets**

Acknowledgments

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The information in this pamphlet is provided as a matter of public service and is for informational use only. The information does not constitute legal advice and should not be used as such.

Users are strongly urged to talk with a lawyer in matters involving Heirs' Property.

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Homeowners living on property passed down from family sometimes can't take advantage of their property rights.

After the 2005 hurricanes, 2016 floods and subsequent disasters, some Louisiana residents were unable to receive federal and state aid for property damage. They owned their homes. They even paid property taxes. But legal documents didn't list them as owners. So, they lacked "clear title." Their homes were passed down through generations by family agreement, but not through the legal system.

They owned "Heirs' Property" and couldn't receive government aid or finance repairs.

Do I have Heirs' Property?

Heirs' Property comes about when necessary legal work isn't done after a property owner dies. If you do nothing, the right to live on the property goes to an "heir."

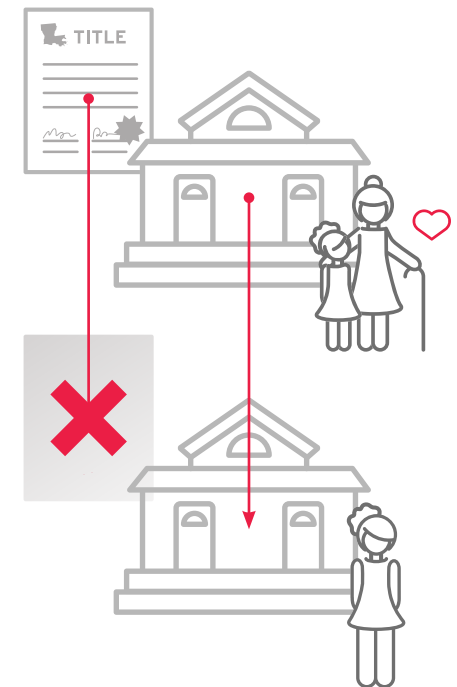
HEIRS ARE

- ▶ Related to the deceased property owner by blood or marriage, or named in a will **and**
- ▶ Alive when the property owner dies.

The heir legally owns the property. But, the property's title does not automatically pass to the heir.

Without legal paperwork, the title is unclear and "unmarketable."

Even if the property owner had a valid will, the heir still must take the original will to court in order to get clear title.



WHY SHOULD I CARE ABOUT CLEAR TITLE?

EXAMPLE ▼

If you do not have clear title, you might not be able to:

Sell your property.

Make repairs to the property.

Borrow money against the property.

Cash an insurance check.

Deal with a bank on a foreclosure.

Qualify for government aid to fix your house.

Get a homestead exemption for taxes.

Get notice of actions by the City or Parish if they try to take your home or fine you.

Have a court rule on “claims of heir” in a lawsuit against those falsely claiming to be heirs of the original owner.

Anna and her children lived in a home with Anna’s mother, who owned the property. Anna’s mother died without a valid will.

Everyone in the family agreed that Anna owned the house. So, Anna never opened a succession in court to get clear title. Some years later, Anna decided to sell the house and move into a larger home closer to her kids’ school. But when Anna tried to sell the house, she couldn’t find a buyer because she didn’t have clear title on the house. The title was still in her mother’s name.

Without clear title, she would have to accept a much lower price on the home, which wouldn’t be enough to help her buy the larger house needed for her and her children.

1960

Mother buys house with the title in her name.



1980

Mother dies without a will. Daughter gets house as heir.



1990

Daughter stays in house. Title still in Mother’s name.



2010

Daughter can’t sell house because title is not in her name. Buyer won’t accept an unclear title.



How can I get clear title on my property?

Getting clear title used to be expensive and time consuming. But now, there's a cheaper and faster way for many people to get clear title.

New laws let Heirs' Property owners file an **"Heirship Affidavit."** This can get them clear title to Heirs' Property, if the estate is valued at less than \$125,000. Using an Heirship Affidavit can reduce legal fees and filing costs.

Louisiana law also allows property owners to use the heirship affidavit for estates of any value where the property owner died over 20 years ago.

WHAT ESTATES CAN USE AN HEIRSHIP AFFIDAVIT?

ESTATE VALUE of
\$125K
OR LESS

ESTATE of ANY VALUE if
OWNER HAS BEEN DEAD

20 YEARS
OR MORE

What is an "Heirship Affidavit"?

An Heirship Affidavit is a statement under oath by 2 or more heirs (including the surviving spouse, if any) as to certain facts. The affidavit can only be used if the property owner died without a valid will. Out-of-state owners who have a will can use the affidavit in limited circumstances. Also, the affidavit can only be filed after 90 days from the property owner's death.

GENERALLY, AN HEIRSHIP AFFIDAVIT REQUIRES:



- ▶ **Date of death** of the deceased, and his or her home address at the time of death.
- ▶ **Marital status** of the deceased, and the name and address of the surviving spouse, if any.
- ▶ **Names and last known addresses** of the heirs, and their relationship to the deceased.
- ▶ **Legal description** of the property.



What else can I do to protect my property?

Make sure property taxes are paid.

Visit your parish tax office to make sure your property taxes are paid up and that the office has the correct name and address of the person responsible for the taxes. Some offices have this information on their web pages.

Have a valid will.

Draft a valid will to ensure that your property will be legally passed down according to your wishes.

Make a family tree.

Create a family tree to help all family members know who their relatives are.

What can I do next to get clear title on my Heirs' Property?

If you think you may have Heirs' Property valued at \$125,000 or less, or if the decedent died over 20 years ago, call an attorney. Explain that you want to file an Heirship Affidavit. The attorney can walk you through the process, decide whether you qualify and describe information that you may need to get clear title.

USEFUL DOCUMENTS TO BRING TO YOUR FIRST VISIT WITH AN ATTORNEY ARE:

- ▶ Deeds
- ▶ Tax receipts
- ▶ Death certificates
- ▶ Obituaries
- ▶ Any other information on family members

If you cannot afford to hire an attorney, free or reduced-cost legal help may be available. See the following page for resources.

To see if you qualify for free legal services, contact a legal aid organization in your area, such as:

Acadiana Legal Service Corporation

www.LA-Law.org

Call 1-866-275-2572.

ALSC provides 42 parishes in Louisiana with legal services. Offices are located in Alexandria, Franklin, Lafayette, Lake Charles, Monroe, Natchitoches, and Shreveport.

Southeast Louisiana Legal Services

www.SLLS.org

Baton Rouge: 225-448-0080

Houma: 985-851-5687

Covington: 985-893-0076

New Orleans: 504-529-1000

Gretna : 504-374-0977

St. Charles Parish:

Hammond: 985-345-2130

985-331-3034

If you do not qualify for free services, you may be able to find a lawyer by using the Louisiana State Bar Association's Modest Means Directory. The directory lists attorneys who charge reduced fees to people who meet specific income eligibility requirements, available at:

www.LSBA.org/Public/FindLegalHelp/ModestMeans.aspx

Thank you

to Louisiana Appleseed's 2024 Partners



GILLIS LONG POVERTY LAW CENTER
Loyola University College of Law, New Orleans



Heirs' Property Checklist

☐ Do you qualify for an heirship affidavit? | *page 6*

☐ Make sure all property taxes are paid

☐ Have a valid will

☐ Make a family tree

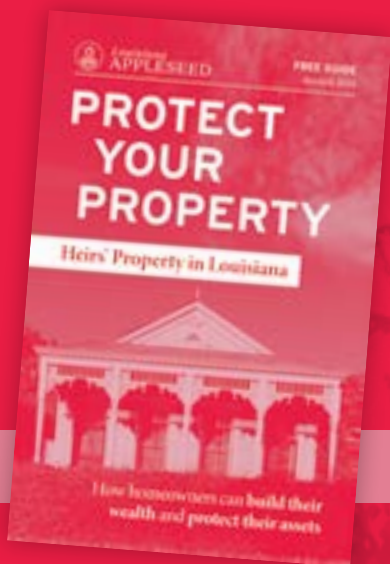
☐ Call an attorney

☐ See if you qualify for an heirship affidavit

☐ Gather useful files

☐ Do you qualify for free legal services? | *page 10*

Protect Your Property—Heirs' Property in Louisiana is part of a series of free resources created by Louisiana Appleseed to help residents of Louisiana plan their estate. Other resource books are:



- ▶ Securing the Future
- ▶ Last Will and Testament
- ▶ Disasters
- ▶ Titles and Property Deeds
- ▶ Trusts
- ▶ Power of Attorney
- ▶ Guardianships, Conservatorships, and Interdiction
- ▶ Advanced Healthcare Directives
- ▶ Safeguarding Your Documents



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