



Testimony before the Joint Standing Massachusetts State Legislature Judiciary Committee  
By Chelsea Gazillo, American Farmland Trust, New England Policy Manager  
October 31, 2023

RE: H.1744 and SD.2816 – An Act relative to uniform partition of heirs’ property

Senator Eldridge, Representative Day, and members of the Joint Standing Judiciary Committee:

My name is Chelsea Gazillo, and I am American Farmland Trust’s New England Policy Manager. I appreciate this opportunity to testify on behalf of American Farmland Trust **in support of** H.1744 and SD.2816 – An Act relative to uniform partition of heirs’ property.

American Farmland Trust (AFT) is the only national organization dedicated to protecting farmland, promoting sound farming practices, and keeping farmers on the land. Through our New England Regional office located in Northampton, Massachusetts, we’ve been doing this work in the region for 36 years. In New England and across the country, AFT is deeply committed to addressing land access and tenure issues that create impediments for historically underserved producers, which include Black, Indigenous, and People of Color (BIPOC), young, and beginning farmers, in achieving secure land ownership.

The Uniform Partition of Heirs Property Act, or UPHPA, serves to facilitate the preservation of generational family wealth held in the form of real property by reforming partition law as it applies to properties owned by tenants in common. I would like to highlight three core provisions related to this legislation:

1. First, if enacted, this bill will add Massachusetts to a [growing list of states](#) that recognize the need to create pathways for tenants-in-common to address home and farmland ownership in an orderly and equitable way, without prompting public auction sales – which often lead to sale prices that are far below fair market value, harming family landowners, particularly economically and racially marginalized families – as a first remedy to partition claims.
2. Second, if passed, this law will create greater options for heirs’ property owners to obtain a United States Department of Agriculture (USDA) farm number and access federal USDA programs and payments, including Farm Service Agency loans.
3. Third, by passing UPHPA, Massachusetts will be given preference over states that have not passed this provision to receive USDA Heirs’ Property Relending Program loans. This program was passed as part of the 2018 Farm Bill, yet it was not implemented until Summer 2021. The opportunity to take advantage of the USDA-HPRP lending program is timely.

In Massachusetts, real estate continues to be extraordinarily expensive and difficult to access for historically underserved producers. According to the latest 2023 National Agricultural Statistic Service (NASS) Land Value Survey, Massachusetts has the third most expensive farmland in the

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country, after Rhode Island and New Jersey, with an average price of \$15,300 per acre. Because agricultural land is so challenging to purchase, Massachusetts must ensure that farm families are able to retain ownership of their land and continue production.

The Commonwealth currently has a limited number of BIPOC farmers. According to the 2017 NASS Census of Agriculture, there are 583 Black, Indigenous, Hispanic/Latinx, and other Farmers of Color in the Commonwealth. This is in comparison to the 12,402 farmers who identify as white. Of the 583 BIPOC farmers in the state, only 200 of these producers' own farms. AFT recognizes that the 2017 NASS Census data may be limited in capturing data that accurately depicts of the number of BIPOC producers in the state due to numerous factors including the history of discrimination and distrust of USDA and NASS by many BIPOC producers. This stark disparity is a result of centuries of land and agricultural policies (including partition and tenancy in common law), planning practices, and other forms of systemic racism that have prioritized white producers.

USDA recognizes heirs' property as "the leading cause of Black involuntary land loss."<sup>1</sup> Through efforts like the Massachusetts Department of Agricultural Resources (MDAR) Farmland Action Plan, the state is actively searching for ways to promote farmland access opportunities for BIPOC farmers seeking land. However, as a result of historical inequities, BIPOC producers may lack the resources necessary to do proper estate planning and thus retain possession of property. Without systems in place to ensure that BIPOC landowners are not subject to unjust processes, additional farmland will be lost and thus create a deeper divide in who owns and does not own land in Massachusetts.

As noted above, the negative impacts of heirs' property exploitation have especially affected BIPOC farmers and landowners. Yet people of all racial backgrounds have struggled with secure land tenure because of inadequacies in partition law. Working-class and low-income families without the financial capacity to create legally valid wills and estate plans have been subject to dispossession through partition, leading to economic, agricultural, and social harms—not to mention the emotional trauma of losing family land.

According to AFT's 2020 Farms Under Threat report, 27,200 acres of agricultural land in Massachusetts were developed or compromised between 2001-2016. Given the high demand for housing and the push to expedite development, this pressure also puts lands that are held as heirs' property in both urban and rural settings at high risk of being converted for haphazard development and pushing land access further out of reach for non-wealthy land operators.

By enacting H.1744 and SD.2816, Massachusetts will protect farmers from predatory practices that allow real estate investors to acquire land well below its fair market value and deplete a family's inheritance in the process. This law will also aid farm families in accessing more federal support programs to build economically viable operations that support the Commonwealth and our region's food system.

Finally, keeping land in agricultural use provides a host of ecological and environmental benefits for local communities. If we care about fairness, vibrant food systems, rural economies, land

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<sup>1</sup> <https://www.agdaily.com/insights/understanding-heirs-property-and-its-impact-on-farmers/>

preservation, and more, then Massachusetts should join the growing number of states who have already passed the UHPA.

Thank you for the opportunity to submit testimony in support of this important provision. On behalf of AFT, I urge you to pass H.1744 and SD.2816 this legislative session. If you have any questions, please reach out to me at [cgazillo@farmland.org](mailto:cgazillo@farmland.org) or (707) 495-8223.

Sincerely,



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New England Policy Manager

*American Farmland Trust is an agricultural non-profit organization with a mission to save the land that sustains us by protecting farmland, promoting sound farming practices, and keeping farmers on the land. AFT is the only national agricultural organization that approaches its work in this comprehensive, holistic manner. We recognize the connection between the land, forward-looking farming practices, and the farmers who do the work.*

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