



**LOUISIANA STATE LAW INSTITUTE**

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January 26, 2022

Representative Clay Schexnayder  
Speaker of the House of Representatives  
P.O. Box 94062  
Baton Rouge, Louisiana 70804

**RE: HOUSE RESOLUTION NO. 201 OF THE 2021 REGULAR SESSION**

Dear Mr. Speaker:

The Louisiana State Law Institute respectfully submits its interim report to the legislature relative to the Uniform Partition of Heirs Property Act.

Sincerely,

A handwritten signature in blue ink that reads "Guy Holdridge".

Guy Holdridge  
Director

cc: Representative Gregory Miller

email cc: David R. Poynter Legislative Research Library  
[drplibrary@legis.la.gov](mailto:drplibrary@legis.la.gov)

Secretary of State, Mr. R. Kyle Ardoin  
[admin@sos.louisiana.gov](mailto:admin@sos.louisiana.gov)

**LOUISIANA STATE LAW INSTITUTE  
SUCCESSIONS AND DONATIONS COMMITTEE**

**INTERIM REPORT TO THE LEGISLATURE IN RESPONSE TO  
HR NO. 201 OF THE 2021 REGULAR SESSION**

**Relative to the Uniform Partition of Heirs Property Act**

Prepared for the  
Louisiana Legislature on

**January 26, 2022**

Baton Rouge, Louisiana

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Ronald J. Scalise, Reporter  
Jessica G. Braun, Staff Attorney

2021 Regular Session

HOUSE RESOLUTION NO. 201

BY REPRESENTATIVE GREGORY MILLER

A RESOLUTION

To direct the Louisiana State Law Institute to study provisions of law on partition of property owned in indivision and how partition impacts heirs' property in order to make recommendations regarding the rights and duties required by owners in indivision of property, and to report the findings to the House of Representatives of the Louisiana Legislature no later than February 1, 2022.

WHEREAS, partition of property held in indivision may be demanded by any co-owner pursuant to Louisiana Civil Code Article 807; and

WHEREAS, a great amount of property in Louisiana is owned in indivision by multiple individuals; and

WHEREAS, of the property in Louisiana that is held in indivision, much of that property was inherited and is classified as heirs' property under the Uniform Partition of Heirs' Property Act (UPHPA); and

WHEREAS, the UPHPA provides protections to ensure that holders of heirs' property are given a right of first refusal prior to a partition by licitation; and

WHEREAS, the UPHPA provides procedural protections to ensure that if partition occurs, the financial interests of all holders of heirs' property are protected; and

WHEREAS, the 2018 Federal Farm Bill provides preferential treatment to residents of states that have adopted the UPHPA by awarding billions of dollars in agricultural loans issued by the United States Department of Agriculture; and

WHEREAS, the 2021 Federal American Rescue Plan provides preferential treatment to a portion of the \$1.9 trillion to residents in states that have adopted the UPHPA; and

WHEREAS, eighteen states have adopted the UHPHA since 2011 and eight states, including North Carolina and the District of Columbia, have legislation pending to adopt UHPHA during this 2021 legislative session; and

WHEREAS, our neighboring and southern states of Alabama, Mississippi, Arkansas, Georgia, South Carolina, Virginia, Florida, and Texas have adopted the UHPHA.

THEREFORE, BE IT RESOLVED that the House of Representatives of the Legislature of Louisiana does hereby direct the Louisiana State Law Institute to study provisions of law in order to make recommendations regarding adoption of the UHPHA, and to report its findings and recommendations to the Louisiana Legislature no later than February 1, 2022.

BE IT FURTHER RESOLVED that the House of Representatives of the Legislature of Louisiana does hereby direct the Louisiana State Law Institute to invite participation from representatives of the Louisiana Realtors Association, the Louisiana Appleseed Center for Law and Justice, the Louisiana Land Title Association, the Louisiana Association of Independent Land Title Agents, the Uniform Law Commission, and the Louisiana Banker's Association.

BE IT FURTHER RESOLVED that a copy of this Resolution be transmitted to the director of the Louisiana State Law Institute.

BE IT FURTHER RESOLVED that the Louisiana State Law Institute shall submit one print copy and one electronic copy of any report produced pursuant to this Resolution to the David R. Poynter Legislative Research Library as required by R.S. 24:772.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

January 26, 2022

To: Representative Clay Schexnayder  
Speaker of the House  
P.O. Box 94062  
Baton Rouge, Louisiana 70804

**INTERIM REPORT TO THE LEGISLATURE IN RESPONSE TO  
HR NO. 201 OF THE 2021 REGULAR SESSION**

House Resolution No. 201 of the 2021 Regular Session directs the Louisiana State Law Institute to study and make recommendations regarding the provisions of law on partition of property and how it impacts heirs' property and the rights and duties required by owners in indivision. The resolution directs the Law Institute to work with the Louisiana Realtors Association, the Louisiana Appleaseed Center, the Louisiana Land Title Association, the Louisiana Association of Independent Land Title Agents, the Uniform Law Commission, and the Louisiana Banker's Association. In fulfillment of this request, the Law Institute assigned the project to its Successions and Donations Committee, which operates under the direction of Professor Ronald J. Scalise, Jr. as Reporter.

The Committee has discussed the travesty that occurs when co-owned property has been inherited and passed down by families over the years but partition is forced and heirs are evicted when an unrelated third party acquires a small portion of the property. In 2010, the Uniform Law Commission recommended that all states adopt the Uniform Partition of Heirs Property Act (UPHPA) to afford certain enhanced notice and procedural protections to holders of heirs' property. Eighteen states, including neighboring states such as Alabama, Mississippi, Arkansas, and Texas, have adopted the UHPA, and R.S. 9:1113 was amended in 2014 to grant a right of first refusal and to provide a longer notice period. However, many low-income minority families have continued to be adversely affected, and the federal government has offered preferential treatment and incentives to states and their residents if the UHPA is adopted.

A representative from the Uniform Law Commission informed the Committee that to be designated as having adopted the UHPA, five main sections have to be included in state law. The Committee is drafting a Louisiana Uniform Partition of Heirs Property Act that encompasses existing R.S. 9:1113 and the required core concepts to be considered a state that has adopted the UHPA, but the Committee is being cautious of possible unintended consequences in fitting these concepts into Louisiana's civil law.

A final report will be submitted to the Legislature after the Successions and Donations Committee presents and receives approval of its recommendations from the Law Institute's Council.