



Tribal Leadership Update: Heirs Property Relending Program

USDA Farm Service Agency

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USDA Indian Country Priorities

Josiah Griffin
USDA Office of Tribal Relations

FSA serves on USDA's Native American Working Group led by Agriculture Secretary Vilsack's Office of Tribal Relations Director Heather Dawn Thompson.

- **Tribal Barriers/Equity** - Removing the unique barriers for indigenous and tribal access to USDA programs and services
- **Tribal Self-Determination** - Promoting tribal self-determination throughout USDA
- **Indigenous Values** - Adapting USDA's programs to include tribal values and indigenous perspectives



TRIBAL UPDATES

FSA Tribal Advisory Work Group

In 2022, Administrator Zach Ducheneaux formalized an advisory group (AO, Outreach, DAFO, DAFLP, DAFP & Environmental) to address recommendations by tribal leadership in USDA Tribal Consultations, reduce barriers to program participation and implement USDA leadership priorities for Indian Country.

- Outreach Specialist/Tribal Lead
Jennifer Perez serves as lead staff.

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TRIBAL UPDATES



Tribal Action Plan Status:

- Inventorying FSA policy handbooks to ID/incorporate changes needed to improve program access
- Engaging Tribal Nations on Conservation Reserve Enhancement Program (CREP) Partnership opportunities
- Researching ways to support to Tribes/Tribal Historic Preservation Offices to increase FSA program participation and conservation implementation on tribal lands
- Working with FSA State Offices & Tribes to increase tribal participation in COC Election Nomination and Voting Processes
- Addressing Land Access (Coop. Agreements, HPRP, HFIL, ITLAP)
- Finalizing Tribal Customer Experience Project Recommendations

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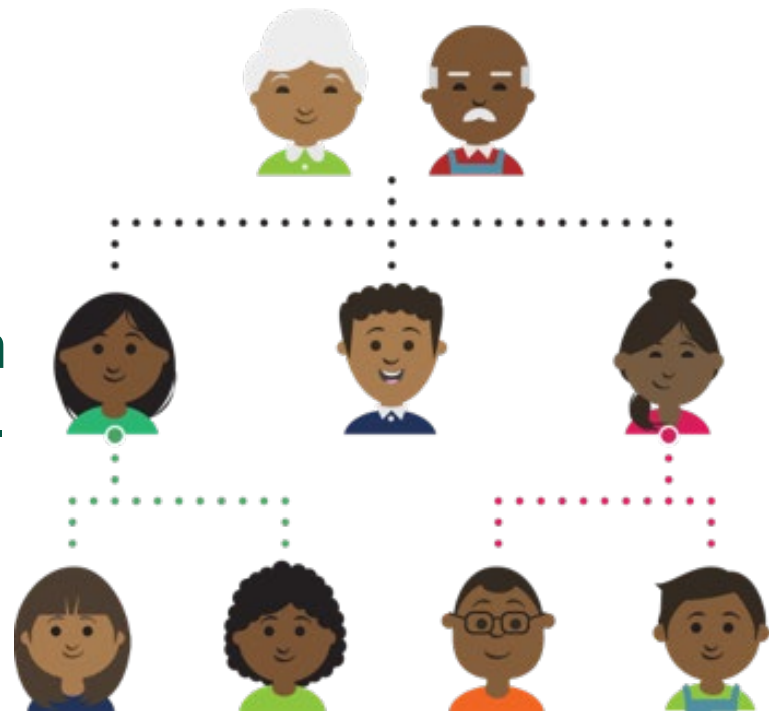
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A landscape photograph showing a dirt road with tire tracks curving through a field. In the background, there are green trees and a distant horizon. The sky is a deep blue with a large, flat, white cloud stretching across the middle. The sun is visible on the right side of the sky, creating a bright glow. A dark, semi-transparent rectangular box is overlaid on the lower half of the image, containing the text "Heirs Property" in white.

Heirs Property

What is Heirs' Property?

Heirs' Property is family-owned land that is jointly owned by descendants of a deceased person whose estate did not clear probate.



FSA is here to help!

FSA can help establish a farm number to gain access to a variety of programs and services.

Program Eligibility

- Farm numbers allow access to USDA programs

2018 Farm Bill



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Understanding USDA Program Avenues for Heirs'

Program Benefits	FSA County Office	Heirs' Property Relending Program (HPRP)	Certified Mediation Program
Assists heirs with resolving title issues related to property.		X	X
Assists with resolving disputes related to heirs' property.		X	X
Assists heirs with documentation necessary to receive a farm number.	X		
Provides loans to resolve heirs' property title issues by financing the purchase or consolidation of property interests and financing costs associated with a succession plan.		X	

Heirs' Property: FSA County Office Assistance



Guidance for Heirs' Property Operators to Participate in Farm Service Agency (FSA) Programs

- Heirs' Property Overview
- What is the Difference Between a USDA Farm Operator and Farm Owner?
- How Do I Establish My Farm as an Operator?
- How Do I Establish Farm Ownership?
- How Do I Get Started?



United States Department of Agriculture

Farm Service Agency

Guidance for Heirs' Property Operators to Participate in Farm Service Agency (FSA) Programs

FACT SHEET
March 2022

Heirs' Property Overview

Heirs' property is family owned land that is jointly owned by descendants of a deceased person whose estate did not clear probate. The descendants, or heirs, have the right to use the property, but they do not have a clear or marketable title to the property since the estate issues remain unresolved.

The 2018 Farm Bill authorizes alternative documentation for heirs' property operators to establish a farm number. A **farm number** is required to be eligible for many different USDA programs, including lending, disaster relief programs, and participation in county committees.

Operators on heirs' property who cannot provide owner verification, or a lease agreement, may provide alternative documents to substantiate they are in general control of the farming operation.

What is the Difference Between a USDA Farm Operator and Farm Owner?

A **farm operator** is defined by USDA as an individual, entity, or joint operation who is in general control of the farming operations for the current year. The farm operator is the person who runs the farm, making day-to-day management decisions. The operator could be an owner, hired manager, cash tenant, share tenant, or a partner.

USDA defines a **farm owner** as an individual or entity who has legal ownership of farmland.

For more information, visit farmers.gov/heirs



How Do I Establish My Farm as an Operator?

How to establish your farm as an operator may vary based on whether you farm in a state that has enacted the Uniform Partition of Heirs Property Act (UPHPA). UPHPA helps preserve family wealth passed to the next generation in the form of real property. If a landowner dies intestate, the real estate passes to the landowner's heirs as tenants-in-common under state law. For now, Alabama, Arkansas, California, Connecticut, Florida, Georgia, Hawaii, Illinois, Iowa, Mississippi, Missouri, Montana, Nevada, New Mexico, New York, Texas, Virgin Islands, and Virginia have the UPHPA enacted.

In states that have adopted the UPHPA, the following are options FSA recognizes to establish your farm as an operator:

- A court order verifying the land meets the definition of heirs' property as defined in the UPHPA, or
- A certification from the local recorder of deeds that the recorded owner of the land is deceased and at least 1 heir has initiated a procedure to retitle the

Guidance for Heirs' Property Operators to Participate in Farm Service Agency (FSA) Programs

- Uniform Partition of Heirs Property Act (UPHPA).
- How Do I Establish Farm Ownership?
- How Do I Get Started?



United States Department of Agriculture

GUIDANCE FOR HEIRS' PROPERTY OPERATORS TO PARTICIPATE - MARCH 2022

- land, or
- any of the options listed below for heirs in states that have not adopted the UHPA.

In states that have and in those states **that have not adopted the UHPA**, the following are accepted by FSA to establish your farm as an operator:

- A tenancy-in-common agreement, approved by a majority of the owners, that gives the individual the right to manage and control a portion or all of the land.
- Tax returns for the previous 5 years showing the individual has an undivided farming interest.
- Self-certification that the individual has control of the land for purposes of operating a farm or ranch.
- Any other documentation acceptable by the FSA county office, that establishes that the individual has general control of the farming operation, including, but not limited to, any of the following:
 - affidavit from an owner stating that the individual has control of the land
 - limited power of attorney giving the individual control of the land
 - canceled checks and or receipts for rent payments and/or operating expenses.

Important Note: All of these methods are acceptable by FSA offices regardless of the UHPA state designation.



How Do I Establish Farm Ownership?

Proof of ownership may include the following:

- A copy of the deed, if recorded.
- An unrecorded deed, if the specific USDA program does not require a recorded deed.
- A land purchase contract or other similar document that affirms ownership interest.
- An FSA employee's check of the record at the county land records office or website.
- A certification of an heir that may not be able to provide a legal documentation to confirm ownership of the property. The certification will need to be accompanied by documentation such as:
 - real estate tax assessment or bill
 - proof of gift tax
 - will
 - affidavit of ownership
 - other documentation as may exist under State law.

How Do I Get Started?

Your first step should be contacting the FSA office at your local USDA Service Center. Find your local USDA Service Center at www.farmers.gov/service-locator. Schedule an appointment to meet with the county outreach coordinator to discuss your farming aspirations and USDA programs available for new farmers and ranchers.



Certified Mediation Program

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USDA Certified Mediation Program makes grants to state-designated entities that provide alternative dispute resolution through mediation to agricultural producers, their lenders and others affected by the actions of certain USDA agencies.



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Farm Service Agency

Certified Mediation Program

FACT SHEET
October 2021

Overview

The U.S. Department of Agriculture (USDA) Agricultural Mediation Program makes grants to state-designated entities that provide alternative dispute resolution through mediation to agricultural producers, their lender and others directly affected by the actions of certain USDA agencies. In mediation, a trained, impartial mediator helps participants review and discuss their conflicts, identify options to resolve disputes and agree on solutions. This process helps to avoid expensive and time-consuming administrative appeals and/or litigation.

These grants are administered by the Farm Service Agency (FSA). Cases covered by the grants include agricultural loans, whether made by USDA or commercial lenders, and disputes involving USDA actions on farm and conservation programs, wetland determinations, rural water loan programs, grazing on national forest system lands, pesticides, rural housing and business loans, and crop insurance.

How Mediation Works

USDA program participants are offered the opportunity to request mediation prior to a formal administrative appeal. If this option is requested, some state programs are able to provide assistance to prepare participants for the mediation session, which is held at a time and place convenient to all parties.

Unlike a judge or arbitrator, the mediator has no decision-making authority and is present only to help participants discuss and explore their issues in a useful, non-confrontational manner. Successful mediation is based on the cooperation and involvement of all participants.

Mediation can be accomplished in one meeting or may take several sessions depending on the complexity of the issues and the number of participants. If an agreement is not reached, the case is closed, and all parties remain free to pursue other available administrative appeals and/or legal action.

Mediation Benefits

Successful mediation benefits participants in the following ways:

- Mediation may resolve disputes within a participant's financial means, providing a low-cost alternative to appeals or often expensive litigation and bankruptcy;
- The program may reduce stress caused by lengthy litigation. While it can take years for a case to filter through the courts, mediation generally takes only a few meetings to complete; and
- Mediation is confidential. Documents are not used for any other legal action against the participants.

Cost to Participants

Some state programs charge mediation participants a nominal fee for mediation services. This varies from state-certified mediation programs designated by the Governor or Designee. When mediation services are needed in a non-certified state, FSA contracts with a reputable mediator in the general public. If your state is not listed, please contact your local FSA office.

For More Information

For more information about FSA and its programs, visit your local FSA office or online at <https://www.fsa.usda.gov>. To find your local FSA office, visit <https://www.fsa.usda.gov/state-offices/index>.

What's Covered?

2018 Farm Bill Expanded
Covered issues to include:

- Lease issues, including land leases and equipment leases
- Family farm transition
- Farmer-neighbor disputes
- Credit Counseling
-And so much more!



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Heirs' Property Relending Program (HPRP) Overview

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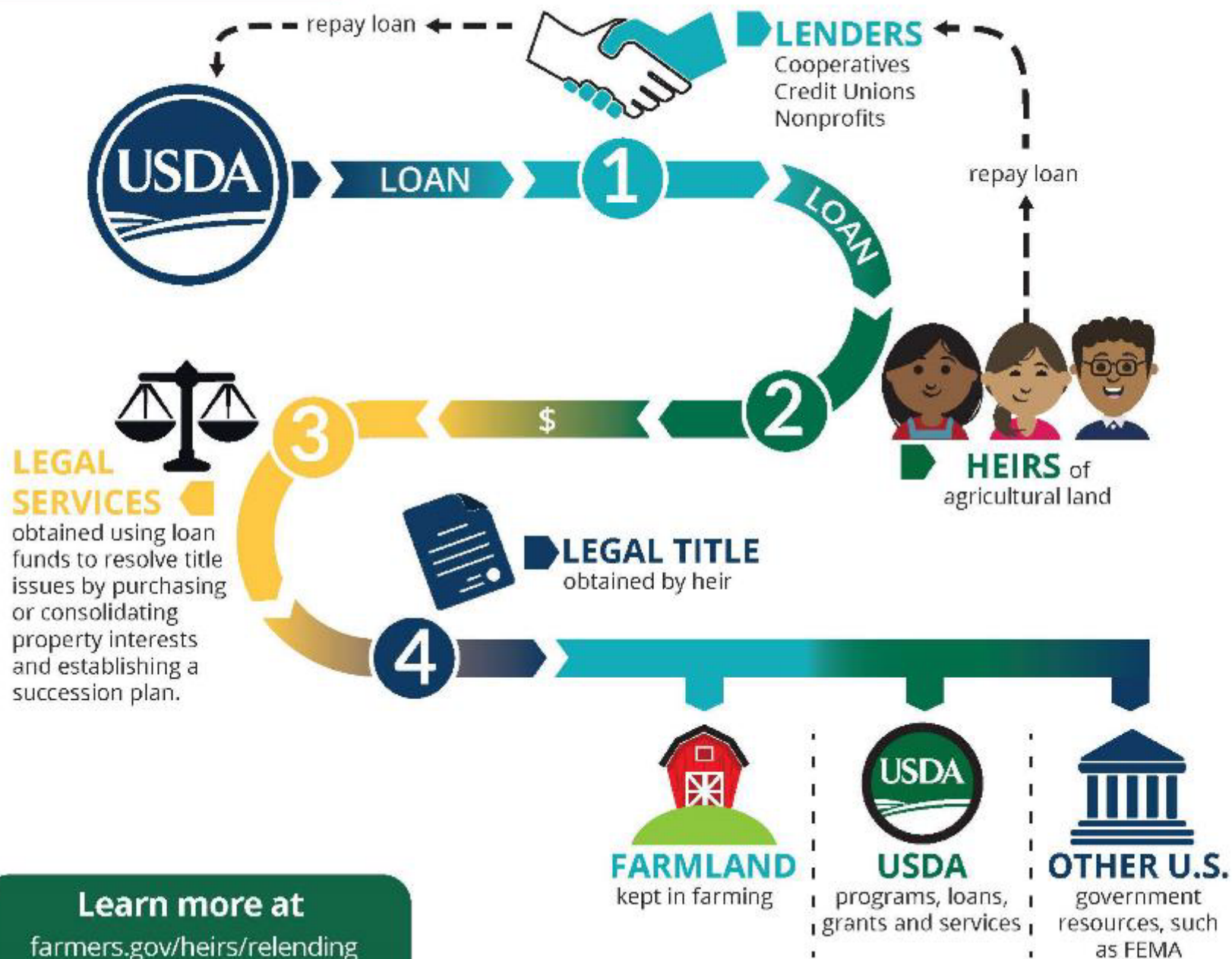
What is the Heirs' Property Relending Program?

Eligible entities will provide loans to assist heirs to:

- Resolve ownership issues on farmland with multiple owners
- Resolve succession issues on farmland with multiple owners

Note: These are loans that must be repaid to the intermediary lender.

How it Works



Learn more at
farmers.gov/heirs/relending

HPRP Eligibility Requirements

Intermediaries

- Eligible entity types
- Certification
- Citizenship
- Experience



Ultimate recipient

- Be an individual
- Related by blood
- Succession plan

Heirs Eligibility Requirement

- Individuals or legal entities with authority to incur the debt and to resolve ownership and succession of a farm owned by multiple owners;
- Are a family member or heir-at-law related by blood or marriage to the previous owner of the property;
- Agree to complete a succession plan.



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What Can the Loan Be Used For?

- If you're an heir, you may use the loans to resolve title issues by financing the purchase or consolidation of property interests and financing costs associated with a succession plan.
- This may also include costs of buying out fractional interests of other heirs to clear the title, which includes closing costs, appraisals, title searches, surveys, preparing documents, mediation, and legal services.
- Heirs should contact lenders for more information on loan uses.

Meet The Lenders

Cherokee Nation Economic Development Trust Authority (CNEDTA)

*Representative, Stephen Highers
Director of the Small Business Assistance Center*



Akiptan, Inc.

*Representative, Skya Ducheneaux
Executive Director*

Dawn "Dawnee" LeBeau, Program Officer

Indefinite Open Period

We need your help....

USDA is opening a second opportunity for eligible entities interested in becoming intermediary lenders under HPRP.

Loans of up to \$5 million at 1% interest are available.

Eligible lenders may apply using the HPRP application and provide the required application documentation, including:

- a relending plan,
- copy of CDFI certification,
- financial statement for the past three years,
- current financial statement, documents of incorporation,
- and any supporting documents related to experience.



Heirs Property: Resources

WEBSITES:

<https://www.farmers.gov/heirs>

<https://www.farmers.gov/heirs/relending>

Includes info on:

- Establishing a farm number
- Heirs Property Relending Program
- Fact Sheets:
 - Heirs' property operators on getting a farm number
 - What is Heirs Property?
 - Heirs' Property Relending Program
 - HPRP: 6 Tips for Working with Lenders
 - USDA Assistance for Heirs' Property Landowners
 - Video Resources
 - FAQs
 -***and so much more, plus more to come!***



Highly Fractionated Indian Land (HFIL) Loan Program

- Revolving loan fund program under the 2014 Farm Bill administered through intermediary lenders:
- **Indian Land Capital, Little Canada, MN**
- These funds are not loaned directly from FSA to eligible participants. Funds go through approved intermediary lenders to lend to eligible applicants.



HFIL Program Applicant Eligibility

- Need to be able to own at least 51% of the fractionated land to be purchased
- Applicants must be a Tribe, Tribal Member or Tribal Entity
- Land must be used for agriculture purposes
- For interested Intermediary Lenders who wish to apply, please contact the National Office HFIL Coordinator:
Darlene Canlas
darlene.canlas@usda.gov



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Contact Information

FSA Outreach Office/HPRP Team

Phone: 202-690-1700

Email: FSAOutreach@USDA.gov

Website: [Outreach and Education \(usda.gov\)](http://OutreachandEducation.usda.gov)



Akiptan, Inc.

Contact: Skya Ducheneaux at
skya@akiptan.org or (605) 964-8081 ; and
Dawn LeBeau at dawn@akiptan.org

Website: <https://www.akiptan.org/>



Cherokee Nation Economic Development Trust Authority (CNEDTA)

Contact: Stephen Highers at
stephen-highers@cherokee.org, (918) 207-3955; and
Brian Wagmon at (918) 453-5531, sbac@cherokee.org

Website: <https://www.cherokee.org/>

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