

State of Kansas
Senate Chamber



Randall Hardy
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Written Testimony

To: Chairperson Wilborn and Members of the Senate Judiciary Committee
From: Senator Randall Hardy
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The Uniform Partition of Heirs Property Act addresses a problem faced by many middle to low-income families who own real property: dispossession of their land through a forced sale. Most higher-income families engage in sophisticated estate planning, ensuring a smooth transfer of wealth to the next generation. In contrast, lower-income landowners are more likely to use a simple will to divide property among children, or to die intestate. Unless a landowner specifies a different form of ownership in an estate plan, the owner's descendants will inherit real estate as tenants-in-common under state property statutes. A tenant-in-common may sell his or her interest without the consent of the co-tenants, making it easy for non-family members to acquire an interest in the property. This condition has allowed many real estate speculators to acquire heirs' property at a price below its fair market value, depleting a family's wealth in the process.

The Uniform Partition of Heirs Property Act preserves the right of a co-tenant to sell his or her interest in inherited real estate, while ensuring that the other co-tenants will have the necessary due process to prevent a forced sale: notice, appraisal, and right of first refusal. If the other co-tenants do not exercise their right to purchase property from the seller, the court must order a partition-in-kind if feasible, and if not, a commercially reasonable sale for fair market value.

As an added benefit, adopting uniform law provides attorneys who practice across state lines the need to address only one law.