

NEW JERSEY: STATE-LEVEL POLICY SCAN OF LAWS IMPACTING HEIRS' PROPERTY

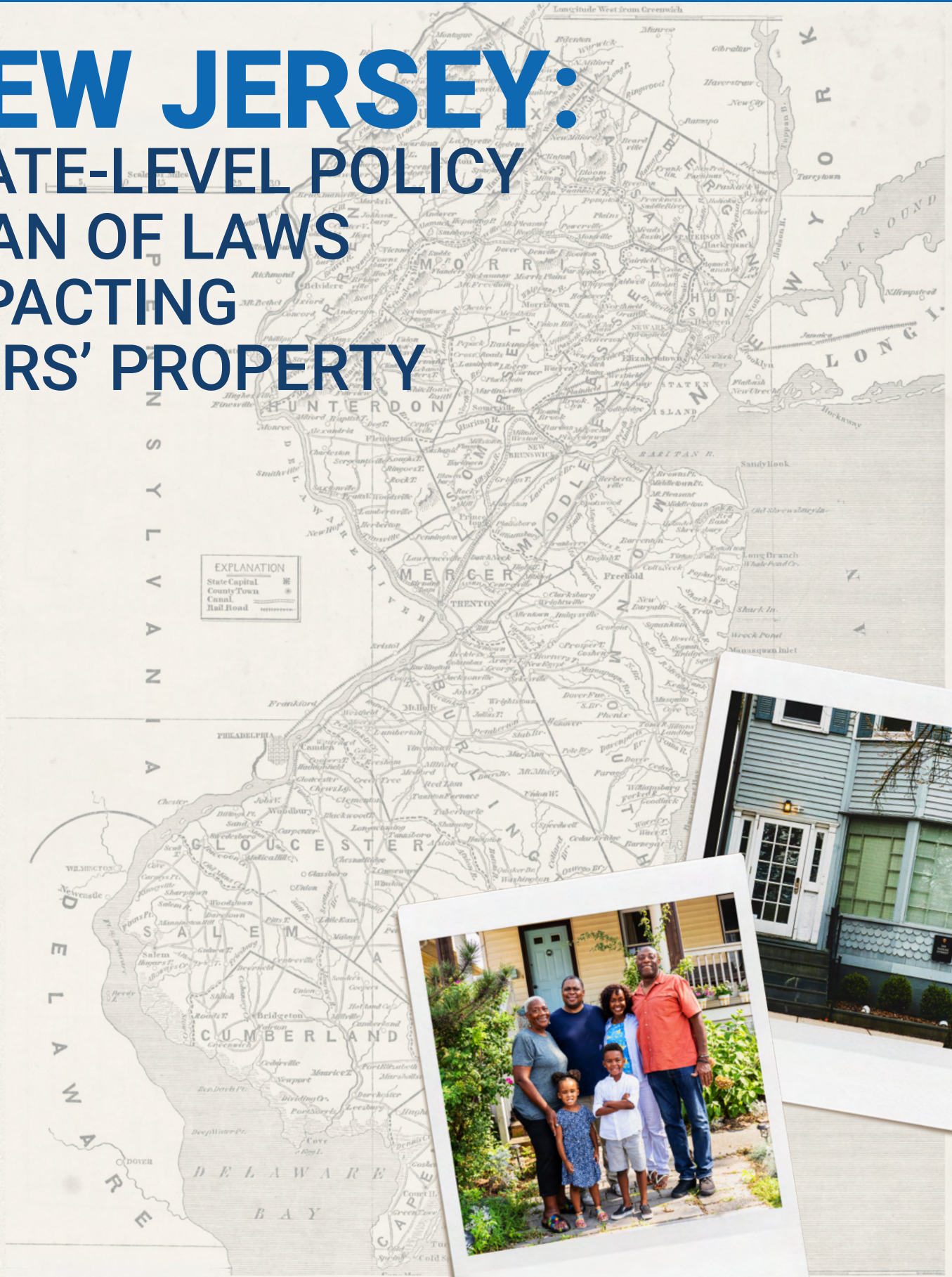


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OVERVIEW

The goal of this document is to review the state laws and policies of New Jersey that impact heirs' property—its creation, resolution, and risk of loss. Heirs' property is real property that has passed down through inheritance, often across multiple generations, without going through a probate court process to document the transfer.

Without a registered deed or legal proof of ownership, heirs' property owners are blocked from access to many forms of relief and are at heightened risk of losing housing or home equity value to speculators. With ownership fractured among many heirs, it may be impossible for any individual heir to benefit from the value of the property by selling, mortgaging, or otherwise using the property. Heirs living in the home face an increased risk of displacement in foreclosure or other situations where ability to prove valid ownership is critical.¹

Funders have a unique opportunity to protect and build generational wealth by investing in strategically designed initiatives focused on addressing fractured ownership.

Philanthropic actors, in collaboration with nonprofit advocates, can make a significant, coordinated impact if awareness regarding potential heirs' property asset losses and associated housing risks is broadened among funders. Grantmaking to protect heirs' properties produces a significant return on investment, ranging from 2 to 32 times the amount invested.² Grantmakers aiming to mobilize the wealth-building and wealth-preservation potential of heirs' property must consider the importance of targeted policy reforms in tandem with effective delivery of direct services. The following checklist provides a list of state and local interventions which, taken together, have the power to enable owners to make full use of their heirs' property and protect their legacies. Yet few if any states have provided the full slate of these possible protections.



WHY NEW JERSEY AND WHY NOW?

New Jersey laws and policies impacting heirs' property owners are worthy of study for a number of reasons. New Jersey's homeownership rate of 62.9% is slightly below the national average rate of 65.7%.³ Housing affordability relative to median income is a major challenge, with New Jersey ranking eighth in the nation for median rents and first in the nation for the percentage of 18–34 year olds who are still living with parents.⁴ The state ranks fourth in net outflow of residents, reflecting a trend of occupants moving to more affordable states.⁵ Seventy-four percent of households with income below \$75,000 are cost-burdened.⁶ Sixty percent of New Jersey households living in true poverty rent their homes, with half of those households spending more than 46% of income on rent.⁷ Preserving existing affordable homeownership is therefore crucial.

As shown on the following pages, New Jersey has relatively few of the policy interventions that can be most important for protecting, resolving, and preventing heirs' property. Compared to Texas, another state for which this review has been completed, the state has far fewer of the protections that experts deem significant.⁸

However, recent developments suggest that momentum may be building for more within heirs' property policy progress in New Jersey in the near future. In 2025, New Jersey became the 26th jurisdiction to pass the Uniform Partition of Heirs Property Act (UPHPA), a flagship law aimed at protecting heirs' property owners from the deprivation of home equity by speculators who purchase a fractional share of real estate. Lawmakers in the state also introduced a bill to pass the Uniform Transfer on Death Deed Act in 2024, S. 3376, and, in 2023, a bill to protect vulnerable homeowners from direct solicitation to sell their homes, S. 3824.

METHODOLOGY

The research methods used to assess whether a given protection exists in New Jersey included searching the Westlaw legal research database for relevant statutes, searching Legiscan for pending or recently enacted bills, reviewing relevant court rules and legal opinions, and talking with lawyers practicing in the areas of homeownership preservation, foreclosure, estate planning, and probate within the state. The results may be imperfect because legislatures, courts, and agencies use a variety of terms to describe the same concepts. We welcome additional input identifying relevant policy reforms that may have been omitted from this checklist. Our hope is that this document serves as an important jumping-off point to assess the legal terrain in New Jersey, using terms that apply broadly from one state to another.



AFFORDABLE HOUSING CONTEXT IN NEW JERSEY

New Jersey contains a mix of urban, suburban, and rural areas. Nearly 40% of New Jersey's population lives in urban areas, and over 30% in suburban areas, but nearly 20% live in exurban areas and almost 10% in rural areas.⁹ New Jersey is a racially diverse state, but it has been marked by high levels of residential segregation.¹⁰

A landmark 1975 affordable housing lawsuit against Mount Laurel township gave rise to the "Mount Laurel doctrine," striking down exclusionary zoning and ordering all New Jersey municipalities to provide a "fair share" of affordable housing units.¹¹ Despite this litigation, lax enforcement and rules permitting townships to pay other townships to supply their affordable units has resulted in relatively little progress being made toward the goal of affordable housing being distributed equally throughout the state.¹² These severe affordability challenges make preserving existing homeownership of inherited homes even more important.

Legal Context in New Jersey

New Jersey is one of a small number of states that has a state inheritance tax, which may cause homeowners to believe that filing probate will not be advantageous financially, possibly resulting in fewer or delayed filings. However, in many cases, no tax is actually owed. Surviving spouses, domestic partners, children, parents, or grandparents of the deceased are not subject to any inheritance tax.¹³ Siblings or spouses of the deceased's children are subject to a tax on the net value of their inheritance over \$25,000.¹⁴ Further study may be appropriate to determine whether

misunderstandings about the inheritance tax are causing financially struggling families to delay filing probate.

New Jersey's Home Rule Act of 1917 grants municipal governments broad authorities to enact regulations related to public welfare and order.¹⁵ As a result, municipalities have significant powers within the state. Efforts are planned to review the local laws and policies impacting heirs in at least two New Jersey municipalities, since local policies also play a crucial role in defining the legal rights and options for heirs' property owners.

Interpreting the Checklist and Potential Next Steps

The policies listed in this checklist are grouped into three categories: policies that protect heirs' property from loss, policies that facilitate resolving unclear or fractionated ownership, and policies that prevent heirs' property from being formed in the future. Each of these categories is important, and the individual policies listed in each of these categories are viewed by experts as helpful and important, although some policies are more important than others. A group of community partners from around the country identified and discussed these policies in a series of working groups facilitated by the Asset Funders Network in 2024.¹⁶

Any policy in the checklist with a "status in NJ" of no, partial, or unclear presents an opportunity to strengthen the state's laws by clarifying, enhancing, or enacting such a policy. A group of New Jersey advocates and stakeholders would be best positioned to assess the importance, achievability, and path forward for each of these potential reforms.

CONCLUSION

For heirs' property owners, legal protections like these can make a significant difference in protecting what is often a household's most valuable asset from threat or loss. Just as important as enacting legal protections, however, is ensuring that heirs' property owners have realistic access to the protections afforded by the laws.

Direct services providers such as legal services attorneys, housing counselors, private attorneys, and social services agencies play a crucial role in education, outreach, and enforcement of the laws.

Funding for these direct service providers remains crucial. Wherever possible, engaging with direct service providers is critical to determining how rules are working in practice and which policy reforms will have the greatest impact for heirs' property owners.

Making progress on any of these reforms will require strategic planning among a group of on-the-ground advocates, meetings with lawmakers and their staff to provide background and information about why these issues matter, and collaboration with New Jersey attorneys and stakeholders to craft the appropriate legislative language. For some local policies that are not embedded in legislation, concerted efforts to meet with all of the local government stakeholders, providing examples of how other

local governments have adjusted their policies to protect heirs and bringing stories of lived experiences from heirs' property owners in their community, would be the primary strategy. Some of the local policies at play will involve input from multiple stakeholders, including the county probate courts and municipal administrators. Banks, mortgage lenders, and title companies can be important allies in explaining the legal context and ensuring that policy changes will help to promote the use and protection of this valuable asset.

Further steps should be undertaken to study, share, and assess the feasibility of enacting the protections that are currently lacking in New Jersey. This effort could include meeting with stakeholders within the state to assess the opportunities, barriers, and strategies that might lead to the most important policy reforms, as well as the timeline and resource commitments needed to achieve positive results.



NEW JERSEY: CHECKLIST OF STATE AND LOCAL HEIRS' PROPERTY LEGAL PROTECTIONS

Status within New Jersey may involve a yes, no, partial, or unclear, in addition to notes below each item regarding the nuances and issues to be addressed in the state. This checklist is based on the full brief, Heirs' Property: Policies to Preserve Wealth, which can be used for policy analysis in other states.¹⁷



POLICY	GOAL	WHO BENEFITS MOST	FREQUENCY OF NATIONAL ENACTMENT	STATUS IN NJ
PROTECTION: Laws aimed at protecting heirs' property from loss				
Tax Foreclosure Policies				
Homestead exemption accessibility to heirs	Make homestead property tax relief available to heirs (partial ownership, flexible proof)	Residential heirs' property owners	Moderate to rare	No
<p>Notes: New Jersey has three programs that can provide property tax relief, in the form of a rebate, to homeowners based on factors like age or disability and income level: ANCHOR, the Senior Freeze, and Stay NJ.¹⁸ These programs provide no guidance on flexible proof of ownership, although it might be allowed on a case-by-case basis. The statute simply says the property must be "owned and used by the eligible claimant as the eligible claimant's principal residence," N.J.S.A. § 54:4-8.75b, and references the "generally accepted meaning of owned or ownership," N.J.S.A. § 54:4-8.58. The programs seem to look at the name on the deed as a reflection of ownership, which disadvantages heirs who have not yet completed probate. Joint owners receive only a percentage of the tax credit equal to the percentage of the home they own, whereas some other states give full relief to partial owners. N.J.S.A. § 54:4-8.75g. Complicated program rules may deter homeowners from applying. In addition, the fact that assistance is provided only as a rebate after taxes are paid is limiting for low-income homeowners.</p>				
Penalty elimination	Waive late fees and penalties, allow retroactive homestead tax relief	Residential heirs' property owners	Rare	No
<p>Notes: The ANCHOR tax rebate program is open to all applications during the following year (for the previous year, provided that taxes were already paid). If an heir does not apply for ANCHOR on a timely basis, there is no ability to reduce of tax liability for past tax years retroactively.</p>				
Reduction of payment shock	Reduce payment shock for heirs after death of the prior owner	Residential heirs' property owners	Rare	No
<p>Notes: No statutory basis for a freeze or a gradual step-up after the death of a prior owner.</p>				

POLICY	GOAL	WHO BENEFITS MOST	FREQUENCY OF NATIONAL ENACTMENT	STATUS
Tax Foreclosure Policies continued				
Thorough noticing	Give heirs meaningful opportunities to avoid tax foreclosure by making a diligent search and posting notice on the property	Residential heirs' property owners	Rare	No
Notes: Municipalities send regular tax notices and an annual tax bill. Personal service of a tax foreclosure lawsuit is required unless a property is deemed vacant or abandoned. No notice of the sale of the tax lien is required.				
Foreclosure avoidance options	Allow heirs to enter into affordable tax repayment plans	Residential heirs' property owners	Moderate	Partial
Notes: Statute provides for a 5-year municipal repayment plan before tax sale occurs, N.J.S.A. § 54:5-19, and municipal tax liens can be redeemed by installment payments, N.J.S.A. § 54:5-65. These programs may be available to heirs, depending on proof of ownership interest.				
Access to surplus equity	Give heirs access to surplus home equity after a property tax foreclosure	Residential heirs' property owners	Moderate	Partial
Notes: Surplus equity represents the value of the home over and above the property taxes owed. A process to claim surplus equity is theoretically available to heirs, but housing counselors in NJ report that the process is very challenging and may be impossible to navigate without legal help. An heir must demand a sheriff's sale prior to entry of Final Judgment, or they will lose the opportunity to claim any surplus equity. N.J.S.A. § 54:5-98.1. After a sheriff's sale, an heir can apply for release of surplus equity, but it the application may require filing by the Administrator of Estate. N.J. Court Rule 4:64-3. The right to a surplus will be lost if the heir does not demand a sheriff's sale in advance. The constitutionality of this limitation is being litigated.				
Effective outreach to heirs	Create partnerships between Local government players and community groups to reach heirs' property owners and inform them of property tax relief	Residential and nonresidential heirs' property owners	Rare	No
Notes: No efforts on a statewide level; no local efforts that we are aware of.				

POLICY	GOAL	WHO BENEFITS MOST	FREQUENCY OF NATIONAL ENACTMENT	STATUS
Medicaid Estate Recovery Policies				
Limiting the estate	Do not collect against homes transferred outside of the probate estate	Residential, first-generation heirs	Moderate	No
<p>Notes: New Jersey has adopted the broadest definition of estate, including interests passed through a right of survivorship deed. N.J.A.C. § 10:49-14.1(l)(2). Even if a homeowner plans ahead to convey the home to heirs outside of probate, the state will attempt to collect a Medicaid Estate Recovery against the home.</p>				
Limiting recoverable debt	Limit the amount of debt to be recovered as much as possible	Residential, first-generation heirs	Moderate	No
<p>Notes: New Jersey offers only limited waivers based on undue hardship.</p>				
Disaster Relief And Home Repair Assistance				
Clear and flexible proof	Allow heirs' property owners to prove ownership with affidavits	Residential, heirs' property owners of highly fractionated land	State Policies Vary	Partial
<p>Notes: Disaster recovery (CDBG-DR) guidance and local program policies authorize review of alternative documents on a case-by-case basis. In practice, however, the ability to submit alternative proof of ownership is not being communicated to applicants. The same applies to general home repair programs in the state.</p>				
Presumption of authority	Allow one active heir to authorize demolition and replacement, authorize repairs, and receive disaster aid	Residential, heirs' property owners of highly fractionated land	Rare	No
<p>Notes: No clear statute on point. Unclear what individual municipalities will allow.</p>				

POLICY	GOAL	WHO BENEFITS MOST	FREQUENCY OF NATIONAL ENACTMENT	STATUS
Equity Theft Prevention				
Uniform partition of heirs property act (UPHPA)	Protect heirs from exploitative forced sales through notices, buyout rights, and sales at fair market value	Residential and nonresidential heirs' property owners where land values are increasing	Moderate	Yes
Notes: The UPHPA was signed into law by the governor on July 8, 2025.				
UPHPA 2.0	Protect heirs from exploitative forced sales through effective rights of first refusal and limits on investor partition	Residential and nonresidential heirs' property owners where land values are increasing	Rare	No
Notes: New Jersey adopted the model act, with no additional protections to make it more likely that heirs can buy out an investor for what the investor paid.				
Probate fraud prevention	Protect heirs from loss of home equity by enforcing existing laws against scams involving probate fraud	Residential and nonresidential heirs' property owners where land values are increasing	Rare	No
Notes: No special efforts are being taken at the state level. N.J.S.A. § 3B:1-9 allows an action against the perpetrator of fraud in connection with probate cases within 2 years of discovery of the fraud (and up to 5 years after commission of the fraud).				
Right of rescission	Protect heirs from loss of home equity through high-pressure sales contracts by allowing a sale contract to be rescinded under certain circumstances	Residential and nonresidential heirs' property owners where land values are increasing	Rare	No
Notes: Legislation requiring wholesalers to obtain wholesaler licenses, give disclosures to sellers, and refrain from contacting homeowners on the Do Not Solicit list was introduced in the New Jersey Senate in May 2023. The bill was referred to the Senate Commerce Committee but never received a reading. S. 3824, 220th Leg., Reg. Sess. (N.J. 2023).				
Deed fraud prevention & resolution	Protect heirs from loss of home equity through deed theft by providing greater resources for enforcement and making it easier to correct the deed records	Residential and nonresidential heirs' property owners where land values are increasing	Rare	No
Notes: No concerted actions have been taken at the state level. Many townships provide a free deed monitoring service that homeowners may sign up for, but this service has no preventive value.				

POLICY	GOAL	WHO BENEFITS MOST	FREQUENCY OF NATIONAL ENACTMENT	STATUS
Foreclosure Prevention and Surplus Equity Protection				
Broad access to foreclosure mediation	Create broad eligibility for home retention pathways, extending to successors in interest	First- and second-generation heirs	Rare	Yes, Limited
<p>Notes: Original mortgage borrowers may request to participate in mediation through the court once a foreclosure has been filed. An heir seeking to participate in the mediation process would likely be required to file a motion, and the court might require that a probate petition be filed first, to establish a right to participate. N.J. Court Rule 4:64-1B.</p>				
Reducing risk of equity theft in the foreclosure process	Ensure that the foreclosure process does not create a risk of speculation and equity theft for heirs	First- and second-generation heirs	Moderate	No
<p>Notes: New Jersey enacted the Community Wealth Preservation Program in 2024, N.J.S.A. § 2A:50-64. While apparently intended to enable bona fide nonprofits to preserve affordable housing, the program created an opening for speculators to rob homeowners, including heirs, of home equity. The law allows a range of interested parties (including neighbors or one of many heirs) to exercise a right of refusal and purchase the home for the judgment amount, even if the fair market value of the home is much more.²⁰ A bill has been introduced to address the aspects of the Community Wealth Preservation Program that have been most subject to abuse by speculators, S. 4470.</p>				

POLICY	GOAL	WHO BENEFITS MOST	FREQUENCY OF NATIONAL ENACTMENT	STATUS
RESOLUTION: Laws aimed at facilitating resolution of heirs' property by clarifying or consolidating title				
Making Probate Easier and Less Costly				
Streamlined probate processes	Broaden eligibility for streamlined probate	First- and second-generation heirs	Moderate	Yes, Limited
<p>Notes: A streamlined “small estate affidavit” process exists for intestate estates worth less than \$50,000 (surviving spouse/partner) or \$20,000 (next of kin). N.J.S.A. §§ 3B:10-3, 3B:10-4. This process would only be available for real estate if the gross value of the real property were under \$50,000 (for a spouse) or \$20,000 (for other next of kin), which will almost never be the case.²¹ Full probate cases permit a bond waiver for a surviving spouse of an intestate decedent, N.J.S.A. § 3B:15-1(c)(2). For other estates, the bond requirement can be waived if all heirs consent. New Jersey’s probate process for uncontested cases is relatively fast and inexpensive compared to other states. No court appearances are required in an uncontested case.</p>				
Probate fee waivers	Make probate affordable and allow fee waivers for low-income filers	First- and second-generation heirs	Moderate	Yes, Limited
<p>Notes: Fee waivers may be available automatically for small estates (which will almost never apply to estates with real property).²² Indigent filers (below 150% of poverty level) may apply for fee waivers.</p>				
Documenting Ownership Without Probate				
Heirship affidavits	Allow heirs to use heirship affidavits to get property tax relief, home repairs, and disaster relief	First- and second-generation heirs	Moderate	Unclear
<p>Notes: Heirship affidavits may be permitted on a case-by-case basis, according to the New Jersey Title Handbook and other policy guidance. In practice, they are very rarely used.</p>				
Consolidating Title				
Tenant in common adverse possession	Allow an heir who is occupying the property and paying taxes to obtain the ownership interests of inactive heirs over time	Owners of highly fractionated land; heir occupants	Rare	No
<p>Notes: New Jersey has no statutory provision allowing ouster by a co-tenant. Case law may allow for it depending on facts. The statutory period is 30 years.</p>				

POLICY	GOAL	WHO BENEFITS MOST	FREQUENCY OF NATIONAL ENACTMENT	STATUS
Facilitating Co-Tenant Agreements and Entity Formation				
Funding for family mediation and agreements	Help large groups of heirs reach agreement on joint management of the land	Owners of highly fractionated land or of agricultural, timber, or mineral land	Moderate	Unclear
<p>Notes: It is unclear whether the NJ Agricultural Mediation Program is available for these disputes. USDA Heirs' Property Relending Program may be available.</p>				
PREVENTION: Laws aimed at preventing the creation of new heirs' property or additional fracturing of existing heirs' property				
Transfer on Death Deed (TODD) Statutes				
Statutory TODDs	Allow property owners to convey the property upon death outside of probate	Low-income homeowners for whom real estate is the sole asset	Common; enacted in at least 31 states plus DC	No
<p>Notes: New Jersey allows life estate deeds, but not enhanced life estate deeds. Homeowners using a regular life estate deed cannot revoke or modify it after the deed is recorded. This is very different from a Transfer on Death Deed or enhanced life estate deed, which may be revoked or modified up until the grantor's death. A bill to allow such deeds was introduced in 2024, the Uniform Transfer on Death Deed Act, S. 3376, introduced by Sen. Shirley Turner (D), Angela McKnight (D), Paul Moriarty (D), but was not passed.</p>				
Contingent Beneficiaries in TODDs	Allow property owners to convey the property upon death without the risk that the TODD fails to take effect	Low-income homeowners with real estate as sole asset	Common	No
<p>Notes: See above; New Jersey does not recognize enhanced life estate deeds or transfer on death deeds.</p>				

POLICY	GOAL	WHO BENEFITS MOST	FREQUENCY OF NATIONAL ENACTMENT	STATUS
Funding & Resources for Estate Planning, Outreach, and Consolidation				
Public funding	Increase the use of public resources for estate planning	All property owners and heirs	Moderate	No
Notes: No public funding that we could identify.				
Public-private partnerships	Increase philanthropic resources for estate planning	All property owners and heirs	Moderate	Yes
Notes: Some legal services programs provide estate planning services directly or through referral to pro bono/volunteer attorneys.				

ENDNOTES

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10. Jag Davies, Mount Laurel at 50: New Jersey's Blueprint for Dismantling Residential Segregation, STATE COURT REPORT (Sept. 2, 2025), <https://statecourtreport.org/our-work/analysis-opinion/mount-laurel-50-new-jerseys-blueprint-dismantling-residential-segregation>.
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15. New Jersey Department of Health, Healthy Community Planning: Resources, <https://www.nj.gov/health/hcpnj/about/resources/>.
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17. Nketiah Berko and Sarah B. Mancini, Heirs' Property: Policies to Preserve Wealth, Brief, Asset Funders Network (2024), https://assetfunders.org/wp-content/uploads/AFN_HeirsProperty_Policies-to-Preserve-Wealth.pdf.
18. See New Jersey Treasury, Division of Taxation, Affordable New Jersey Communities for Homeowners and Renters, <https://www.nj.gov/treasury/taxation/anchor/>; New Jersey Treasury, Division of Taxation, Senior Freeze (Property Tax Reimbursement), <https://www.nj.gov/treasury/taxation/ptr/>; and New Jersey Treasury, Division of Taxation, Stay NJ—Property Tax Relief for Senior Citizens, <https://www.nj.gov/treasury/taxation/staynj/index.shtml>.
19. See Justice in Aging, New Jersey Citizens Action, and New Jersey Academy of Elder Law Attorneys, Collecting Medicaid Costs from Heirs: How New Jersey Compares to Other States, Fact Sheet, August 2025, https://justiceinaging.org/wp-content/uploads/2025/08/NJ_Collecting-Medicaid-Costs-from-Heirs.pdf.
20. On August 28, 2025, a Mercer County judge held that parts of the CWPP are unconstitutional, stating, "N.J.S.A. § 2A:50-64(g) is unconstitutional as applied to the property owners and junior lienholders in this case and violates the Takings Clause of the Fifth Amendment of the United States Constitution and the New Jersey Constitution" (Docket MER C-94-24, "Atlantic County Sheriffs and Joseph O'Donoghue v. State of New Jersey"). A bill was introduced to amend the CWPP, S. 4470 (2024-25 session).
21. Most real estate in New Jersey will exceed \$50,000 in fair market value, although there are some areas of the state, in Camden and the rural northwest, where real estate might be valued below this threshold.
22. N.J.S.A. §§ 3B:10-3, 3B:10-4.