

June 3, 2026

**NEW JERSEY LEGISLATURE ADOPTS UNIFORM PARTITION OF HEIRS ACT
AND REQUIRES TRIAL COURTS TO APPOINT SPECIAL ADJUDICATORS TO
VALUE, SELL, AND DISPOSE OF REAL PROPERTY**

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On July 8, 2025, the New Jersey Legislature adopted P.L. 2025, c.088, known as the Uniform Partition of Heirs Property Act (the “Act”). The Act was adopted to provide a statutory mechanism to adjudicate real property disputes where the real property is inherited, gifted, or passes to heirs by way of intestacy.

The Act defines “heirs property” as any real property held in tenancy in common where (1) there is no written agreement binding all cotenants which govern the property; (2) one or more cotenant acquired title from a relative, living or deceased; and (3) (a) 20 percent or more of the interests are held by cotenants who are relatives, (b) 20 percent or more of the interests are held by an individual who acquired title from a relative, living or deceased, or (c) 20 percent or more of the cotenants are relatives.

In an action for partition which meets the definition of “heirs property,” the Court is mandated to appoint a special master and may appoint a Special Adjudicator to partition the property unless all of the cotenants otherwise agree. The Special Master is empowered to appraise and value the property, oversee the marketing of the property for sale (either to a third-party or among the cotenants) through a broker, and execute any and all documents required to sell the property. Importantly, the Act must be specifically plead in order to be invoked by the trial court hearing the partition action.

The language of the Act suggests that any property where at least 20 percent of the ownership is vested in cotenants who received their ownership interests either through gift, devise, or intestacy can be subject to partition under the Act, even if the other 80 percent are not relatives and did not receive their ownership interest through gift, devise, or intestacy. This could create circumstances

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where, for example, distant relatives inherit an ownership interest in a limited liability company or other entity which owns real property and could seek partition by sale (partition in kind is rare and oftentimes discouraged) and the other owners of the entity are “strangers” whose rights may be impacted as a result of a partition action brought under the Act.

In addition, the mandatory language in the Act that the Court appoint a Special Master to oversee the disposition of the disputed property effectively delegates the adjudication of the matter to a private, court-appointed individual. The Special Master will issue a report setting forth their findings regarding allocations between the litigants for expenses and the ultimate disposition of the sale proceeds which the Court will either adopt or reject. The litigants must object to the Special Master’s report before the Court adopts their findings in order to preserve the issue(s) for appellate purposes. The Special Master is entitled to compensation, which is paid from the net proceeds of sale.

While the Act seeks to amplify the rights of parties who inherit real property and disputes arise, the implementation of the Act regarding the authority of Special Masters and the implications of the rights of non-parties remain ambiguous. Courts are beginning to see actions filed pursuant to the Act and it is likely that clarity regarding the implementation of the Act will be determined when trial court decisions are appealed. For certain, the Act sets forth new rights and obligations in real property disputes which previously were not enshrined in statute.

For more information on this law and its potential impacts, please contact Thomas R. Lahey, Esq. at tlahey@spsk.com.

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