

Meeting Notes
Oregon Law Commission
Partition of Heirs Property Work Group
May 14, 2026

I. Call to Order

In Attendance: Valerie Sasaki, Jane Sternecky, Tabitha Palmer DuPrau, Jeff Petty, Susan Cook, Shane Antholz, Tess Milio, Jeremy Rogers, Tony Kullen, Coline Benson, Matt Shields, Tisha Pascone, Andrea Meyer, Mark Comstock

Staff: Amy Zubko

II. Discussion

a. ULC Feedback on Section 7 Timelines and Secondary Buyout

Jane Sternecky provided feedback from the Uniform Law Commission (ULC) on whether states have deviated from the timelines in Section 7 of the Uniform Partition of Heirs Property Act. She researched whether other states have deviated from the UHPA timeline set out in Section 7.2, 7.5, and 7.6 of LC 9927. Jane shared that most states reviewed had not changed the uniform timelines, including the 45-day election period, the 60-day payment period, and the 20-day period for any remaining outstanding interest. She also noted that those states that had deviated, had adopted at least one of the four timelines. Specific examples included New Jersey, which extended the secondary opportunity to purchase an outstanding interest from 20 days to 45 days, and Nevada extended the payment deadline from 60 days to 90 days. Jane indicated that the ULC would be comfortable with Oregon allowing more time but would not want the timelines shortened.

The group also discussed the Section 7 secondary buyout procedure for shares of non-appearing cotenants. Jane explained that the court has discretion to allow that procedure, but should consider whether a cotenant's nonappearance reflects a true lack of interest or instead a lack of understanding of the legal process.

b. Hypothetical and Lienholder Issues

Amy Zubko introduced the hypothetical prepared by Robert Mauger and explained that it was intended to test how Section 7 would work in practice and to identify unclear issues in the draft or flowchart. The hypothetical was distributed after the April meeting in order to help the work group see how the current Section 7 played out in different scenarios.

The work group members raised three main areas of concern and questions: (1) how land use laws play into the issue (specifically looking at agricultural land), (2) liens and judgment creditors, and (3) how to ensure the court processes are adequate and/or responsive.

The work group began with a discussion of one of the concerns, lienholders rights when it comes to partition actions. Tabitha Palmer Duprau and Tony Kullen spoke to these concerns,

outlining when a lienholder would be involved, or required to be involved, and when a partition action would not involve lienholder rights.

Questions were raised about whether liens attach to the real property, whether a later owner takes subject to existing liens, and whether a partition process can remove a creditor's interest without notice and process. There was discussion that, under the existing Oregon partition practice, lienholders must be parties to the suit and that, in a sale, liens may need to be paid or attached to the proceeds according to priority. Concerns were also raised that the current draft does not fully address lienholders or require their interests to be addressed at distribution, especially where a partition in kind could divide one parcel into several smaller parcels.

The group discussed whether the heirs' property proposal should operate as a supplement to existing ORS Chapter 105 partition procedures or should replace them in some respects. Concerns were also raised about encumbrances, deferred tax recapture, and whether taxing entities might need to participate in some partition actions if those issues are not addressed in the bill. The group agreed to form a subgroup to work through lienholder and judgment issues and bring recommendations back to the full work group. The subgroup will include Tabitha, Jeremy, Mark, Tony, Robert, and Jane, with Amy helping to schedule a meeting before the next full work group meeting.

c. Court-Held Funds, Distribution, and Unclaimed Property

Jeff Petty reported that he had consulted with court process experts about whether courts can hold funds paid into court during the buyout process. The preliminary feedback was that courts have a workable system for holding money, like funds held for interpleader, bond undertakings, appeal money, or insurance proceeds and this would work for partitions as well.

The group also discussed outreach from Lisa Udland from the State Treasurer's Office about unclaimed property and the Department of State Lands. There will be a follow-up discussion about what happens when a person entitled to partition proceeds cannot be found, and Jeff Petty agreed to participate in it given his conversations about court processes.

Tony Kullen raised a related concern that pro se parties may not know that a separate order is needed to distribute court-held funds to specific people at specific addresses. The group discussed whether the partitioning party should have responsibility for submitting an order of distribution and whether additional forms or guidance may be needed for unrepresented parties.

d. Heirship, Vesting, and Title Issues

The group then returned to questions raised by the hypothetical about how the individuals hold title when the original owner died without probate. There was discussion that, under Oregon law, title may vest automatically in heirs or devisees at death, subject to probate administration, even when no deed or probate record identifies the new owners of record. The group discussed

the practical challenge of confirming who inherited what interest when there has been no probate, personal representative's deed, or other recorded title transfer. There was also discussion that nonmarried co-owners generally hold as tenants in common unless a deed expressly creates survivorship rights, and that a deceased cotenant's interest may pass to that cotenant's heirs rather than to the other cotenants by survivorship. The group identified accurate heirship and vesting as an important title issue for the proposal.

III. Scheduling

The next work group meeting will be held on June 11, 2026. Amy will schedule the small group meeting on lienholder, judgment, and related issues before the next full work group meeting and will maintain a master list of questions and topics that need further discussion. At the June meeting, the work group will begin with any reports from side discussions, then move into a deeper discussion of section 8.