Meeting Notes

Oregon Law Commission

Partition of Heirs Property Workgroup

July 9, 2026

I. Call to Order

In attendance: Jane Sternecky, Silvia Camacho-Scyoc, Tony Kullen, Tabitha Palmer DuPrau, Jeremy Rogers, Mark Comstock, Valerie Sasaki, Ashley Krollenbrock, Robert Mauger, Jefff Petty, Coline Benson, Andrea Meyer, Channa Newell, Sowmya Kannan, Tess Milio, Tisha Pascone, Shane Antholz, Susan Gary, Amy Zubko, Nora Robison

The meeting was called to order, and the work group began with the agenda question of whether the Uniform Partition of Heirs Property Act (UPHPA) should be limited to heirs property partition actions or used for all partition actions in Oregon.

II. Discussion

a. Applicability of the UPHPA and Open-Market Sale Authority

The work group discussed whether expanding the proposal beyond heirs property would affect the drafting process and should therefore be decided before further revisions. Several members discussed whether Oregon should have one partition procedure or retain a separate UPHPA process for heirs property, with a narrower amendment to the general partition statutes for open-market sales.

There was support for keeping the UPHPS limited to heirs property because Oregon already has a general partition statute and substantial Oregon case law addressing ordinary partition actions. At the same time, members expressed support for authorizing an open-market sale process in regular partition actions because practitioners reported that brokered sales are already occurring even though the current statute refers to auction procedures.

The work group also discussed notice for an open-market sale and whether the statute should include a form, minimum notice elements, and guidance modeled on other sale-notice practices. Concerns were raised about putting a form in statute, and there was discussion of listing required notice elements instead, including the broker's compensation, sale terms, objection procedure, and any overbid process. Questions were also raised about whether an overbid process could affect marketability or reduce buyer certainty in an open-market sale.

The work group generally agreed to move forward with the proposal as an heirs property act, while also adding open-market sale authority to the regular partition statutes.

b. Unknown or Nonappearing Cotenants, Unclaimed Funds, and Liens

The work group next discussed unknown or nonappearing cotenants and unclaimed funds. The smaller group's discussion with the Treasurer's Office and State Lands was summarized as indicating that State Lands would be willing to receive liquidated proceeds for missing persons but did not want to receive or hold title to real property. That summary was consistent with the written OST feedback that OST was open to handling liquidated proceeds but did not want to receive or hold a real-property interest.

The group discussed the draft provision that would allocate a portion of property to unknown, unlocatable, or defaulted cotenants if partition in kind is ordered and their interests have not been bought out. Members noted the policy tension between protecting absent owners from losing property without process and avoiding a system in which the state or court must hold unmanaged real property for unidentified or unlocated owners.

The work group also discussed current practice when a missing cotenant prevents an active owner from selling, financing, or otherwise dealing with the property. It was noted that, in those cases, partition may be used to allow a sale, and the remaining question is often how to handle proceeds owed to the missing owner.

The group then returned to lien and judgment creditor issues. The smaller group had generally concluded that lien creditors should be parties to any partition action, including heirs property partition actions. There was discussion of using Iowa-style language to clarify that lienholders are necessary parties or otherwise must receive notice so they can protect their interests if the property is divided or sold.

The group was cautious about drafting rules that would be too prescriptive on lien treatment, because liens may need to be paid at sale, remain with the property, or be handled differently depending on the facts. Amy Zubko also reported that she had reached out to DHS and DOR about possible agency notice issues and would keep the group updated.

c. Section 2 Definitions

The work group then returned to Section 2 of LC 9927 and reviewed the definition of "heirs property." The definition was described as generally consistent with the group's prior discussions, and no objections were raised to the 20 percent thresholds during the meeting.

Questions were raised about whether the method by which an interest is acquired should affect the definition of heirs property, including examples involving fractional interests, LLC ownership, commercial property, residential property, and family members holding different types of interests. Jane Sternecky explained that the Uniform Ac is agnostic about how the interest was acquired, as long as the statutory threshold is met.

The group also discussed whether the definition should expressly address vested remainders, reversions, life estates, or other interests. The discussion favored relying on the broader term "real property" rather than adding a detailed list of possible interests. It was also clarified that the definition can be satisfied either by being related to each other or by acquisition from a relative, depending on which part of the definition applies.

III. Scheduling

The group has three additional meetings scheduled, on August 13, September 17, and October 8.

The next steps are for Amy Zubko to continue follow-up conversations with agencies and other individuals identified during the meeting, and for Robert Mauger to incorporate the language discussed into the draft.

IV. Open Questions

- Further review is needed on how the draft should address unknown, unlocatable, or defaulted cotenants when partition in kind is ordered, including how to balance absent owners' property interests with concerns about courts or state agencies holding property.
- Agency notice remains open pending follow-up with DHS and DOR, including notice related to potential Medicaid estate recovery claims.