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## **AN EXAMINATION OF HEIR PROPERTY, THE 1980 EMERGENCY LAND FUND STUDY, AND ANALYSIS OF FACTORS THAT INFLUENCE AFRICAN AMERICAN FARMERS' ACTIONS RELATED TO FARMLAND**

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### **Abstract**

The study focused on heir property and analyzing African American farmers continuing in farming and dealing with clouded title. It specifically assessed the main issues raised by the 1980 Emergency Land Fund's (ELF) study. It also surveyed a sample of African American farmers on heir property and related issues. It used descriptive statistics and logistic regression analysis to analyze the data. It found that 35% of respondents had a portion of their farms (50% or less) on heir property. This study reasonably confirms ELF's findings on the percentage of African American-owned land held as heir property. Also, for farmers, being paid a claim under Pigford, filing a claim, and farm size had significant effects on continue farming (i.e., staying in farming). Continue farming had a significant effect on taking action to resolve clouded title. Being paid and size matters to continue farming, and continue farming matters to clearing clouded title.

**Keywords:** Heir Property, Emergency Land Fund, Land Loss, African American Farmers

### **Introduction**

There is no available data directly connecting heir property to the decline of black land ownership in America. There is, however, an abundance of anecdotal evidence, historical reviews and collections of interviews of landholders and unsubstantiated claims by writers and academics on this subject. Anecdotal evidence and news stories abound speculating on why black land ownership has declined. A key reason for the precipitous decline of black land ownership in America is heir property: "Heir property remains a serious issue and continues to contribute to asset stripping in African American communities, particularly in the southeast" (Nembhard and Otabor, 2012, p. 9).

Heir property results when a person dies intestate (without a will). The lack of a will subjects an estate to the intestate succession laws, which typically allow property to pass on to the deceased's relatives as tenants in common. "Typically, properties lacking estate plans are inherited by heirs with undivided interest thereby creating fractional interest also known as tenants in common" (Federal Register, 2007, p. 1190). Why has heir property been so prevalent in the African American community of landholders? Many reasons explain this phenomenon. Scarce resources and an aversion to relying on the legal system to protect their interests deter many African Americans from seeking a resolution to heir property issues in local courts. The creation of the heir problem presents a myriad of other problems, many of which were unknown to the original owners. As noted below, these seemingly dormant problems metastasize with each successive generation. The purpose of the study was to examine heir property, the 1980 Emergency Land Fund (ELF) study, and analyze factors that influence African American farmers' actions related to farmland. The objectives of the study were to (1) assess the main issues raised by the 1980 Emergency Land Fund's (ELF), (2) analyze factors affecting African

American farmers continuing in farming and taking action to deal with clouded title on land used for farming, and (3) adding to the literature on heir property.

### **Literature Review**

The current literature on heir property correctly identifies the limitations associated with this type of ownership (e.g., the inability to collateralize the property for loans, the risk of property loss due to unpaid taxes, and the difficulty in obtaining federal and state disaster- and farm-loan assistance) and the problems associated with this type of cotenancy (e.g., the diminution of value, locked wealth, and possible partition actions). Many scholars on this subject have argued that a major contributing factor to the loss of African American land stems from the fragile nature of heir property, which subjects such property to forced sales. King et al. (2018), in an article exploring land ownership as a dimension of power and collectivism in Mound, Louisiana, conducted interviews and made observations in order to “explore race-based discrimination and Black agrarianism” in the city (p. 683). They noted that while some land loss can be attributed to migration out of the rural south “... more often ... it occurred because of forced sales, discrimination in agricultural programs, and outright racism, as documented in a comprehensive review of the social-science literature on Black farmers and landowners” (p. 682).

Some scholars contend that heir property has stymied economic development and growth in the African American community and is a primary reason for land loss (Nembhard and Otabor, 2012, p. 3; Dyer and Bailey, 2008). The percentage of African American land held as heir property has been estimated to range from one-third to greater than 50% (Casagrande, 1986, pp. 755–757; Rivers, 2006). Heir property is “the most widespread form of property ownership in the African American community” (Craig-Taylor, 2000, p. 737). Ownership of heir property, according to some, is tantamount to an economic pestilence that has infected the African American community for centuries, causing not only a significant decline in land ownership, but also a restriction of economic development: “Heir property is both a constraint to economic development in predominantly black communities of the rural south and an important cause of land loss among African Americans” (Nembhard and Otabor, 2012, p. 3). “The ability to collateralize or leverage real estate is generally believed to be a pathway to wealth in America. Heir property creates a barrier to wealth accumulation and has contributed significantly to land loss in the African American community in the United States” (Copeland, 2015, p. 1).

The issue of forced sales has not been fully investigated. There has been little scientifically collected data to demonstrate the percentage of African American property held as heir property, the nexus between heir property ownership and the loss of such property due to forced sales. Dyer et al. (2009) notes, “various authors have offered estimates of the extent of black owned heir property” (p. 197). Those estimates are generally not based on qualitative approaches. Only a few studies have been conducted based largely on reviews of land records and interviews of property owners, public officials, and judges. The Southern Coalition for Social Justice (2008) used a list from the Orange County, North Carolina, Land Records Office to conclude that approximately 2% of land in Orange County constituted heir property (p. 11).

Gilbert et al. (2002) reviewed “almost all of the scholarly research on black farmers and land loss” since 1971 (p. 2). They noted that “most of the works cited ... rely on the U.S. Census of Agriculture for data” (p. 2). Their comments are more of a precaution regarding the reliance on

such data. Mitchell (2005) warned, “[I]t must be emphasized that the census has been used as a proxy to study black land ownership because there is no central data base that collects information on property owners in the United States” (p. 576). Mitchell seems to urge that those who rely on such data must be mindful that “because the agricultural census does not include data on non-producing farmland, owners who rely on their farmland, or on owners who use their fertile farmland for non-farming purposes”, a significant gap may exist between perceived and actual usage data” (p. 577).

While Mitchell’s comments have merit, it is interesting to note that the 2012 Census of Agriculture (COA) paints a more positive picture. Between 2007 and 2012, African American farming operations grew at a rate of 20% (United States Department of Agriculture [USDA], 2014). The COA data do not indicate whether the majority of this increase is newly acquired land or land put back into production. Because the average age of “principal operators” continues to increase, with 61% reporting they are between 35 and 64 years of age and 33% reporting over 65 years of age, this may indicate a resurgence in active black farming/ranching operations on previously owned but vacated land (USDA, 2014, p. 64). This observation seems particularly likely to be true, as nearly 80% of those reporting claimed that their farm operations generated less than \$10,000 in annual income and that they lived on the land in excess of 10 years (USDA, 2014).

The demand for more empirical data focused on the root causes of African American land loss began with Mitchell’s call for research addressing the impact of forced sales and non-economic value on property. Mitchell (2005) assigned credibility to the 1980 Emergency Land Fund (ELF) study, authorized by the United States Congress, for raising concerns on the impact of heir property: “Although the [ELF] study provides empirical information on a number of issues pertaining to heirs’ property in the southeastern region of the United States, the study does not address many other important research questions” (p. 585). The ELF study did not quantify the degree to which partition sales may have contributed to the decline of black-owned real property in the southeastern United States. The ELF study was broad in its scope. The impetus behind Congress’ mandating of the study was “to deal with the problems frequently encountered by [Farmers Home Administration] FmHA in its daily practice, which FmHA personnel had begun to label ‘Remote Claims’ (ELF, 1980, p. 11). A “remote claim” is an outlying heir whose interest in a property is demuiumus, but who clouds a title because this interest is technically an encumbrance, thereby adversely affecting the marketability of the property (ELF, 1980, p. 11). To the extent that the ELF study investigated the impact of heir property on African American landownership, “[t]he defined parameters of [the] study ... limited [the] research and analysis to ‘clouds on title’ resulting from heir property ownership in the southeastern region of the United States” (ELF, 1980, p. 10). A “cloud on title” is an encumbrance that may limit or preclude the transfer of property.

Determining the existence of a cloud on title to land and analyzing clouds on title may not require the collection of empirical data relative to partition sales and other legal actions. The authors of the ELF study concede they were unable to overcome the obstacle of “the gathering of data to scientifically establish the reasons for the decline in black-owned land” (ELF, 1980, p. 5). One surely cannot harshly condemn the ELF study for not being a repository of empirical data and analysis relative to partition actions and forced sales as major causes for the decline of black-owned landholdings in the southeastern United States. In outlining the scope and purpose of the

ELF study, the authors provided an unequivocal disclaimer: “This information facilitates a comparative analysis of heir and non-heir property tenure. A more comprehensive study, with an optimum picture of monitoring rural land tenure is still needed (ELF, 1980, p. 3).

This disclaimer notwithstanding, the ELF study did characterize the typical heir property holder as likely (1) female, (2) older than 55, (3) married, (4) having less than nine years of education, (5) relying on social security as a principal source of income, and (6) under-utilizing land in farming/ranching operations (ELF, 1980, pp. 70–79). Taken together with the 2012 COA cited above, the growth and renewal of farming and ranching operations in the African American community may actually provide a glimmer of hope and motivate those who have put off resolving the heir property cloud on the title to their land. This may become increasingly important as the value of the land increases and the potential for court-ordered sales brings the long-delayed African American farming expansion to a grinding halt.

Court-ordered sales, many contend, pose the greatest threat to those who hold an interest in heir property that leads to partition actions. For instance, the dramatic “drop in black ownership of land (between 1969 and 1978) is estimated to have been the result of partitioning sales in over half the recent cases” (Casagrande, 1986, p.756). “One of the most devastating ways families can lose land is through partition sales, a forced sale of heir property” (Dyer et al., 2009, p. 195). Some commentators have relied on “estimates that significant land loss in the African American community resulted from partition lawsuits (Rivers, 2006, p. 552). Rivers also cites the ELF study: “According to The Emergency Land Fund, ‘a sale for partition and division is the most widely used legal method facilitating the loss of heir property’ within the African American communities they serve” (Rivers, 2006, p. 552).

Yet other researchers acknowledge the lack of data drawing a clear nexus between partition actions and the allegedly devastating impact they have on land loss in the African American community: “Currently, there is not enough data on heirs’ property to determine [the resulting impact of partition sales], but partition sales do occur and have a long life in the memory of communities where they occur” (Grabbatin and Stephens, 2011, p. 135). The available literature has devoted significant attention and effort to commenting on the prevalence of heir property in the African American community; however, the collection of empirical data and the analysis of such data are absent. In the last decade, there has been a greater effort toward gathering data that might explain if there is a legal connection between forced sales, heir property, and African American land loss.

### **The Emergency Land Fund Study**

In June of 1973, a report entitled “Only Six Million Acres: The Decline of Black Owned Land in the Rural South,” prepared under the direction of Robert S. Browne of the Black Economic Research Center noted that black-owned farm land “declined from 12 million to 5.5 million acres between 1950 and 1969, a loss of more than 50%” (Browne, 1973, p. 3). Browne expressed that the precipitous decline in black-owned farm land was “alarming,” had emerged as a “major issue” and was rapidly becoming a “major concern” in the African American community (p. 3). Browne’s report served as the antecedent for a large-scale investigation by the ELF into African American land loss. During the course of the ELF study, special recognition “was bestowed upon” Browne, whose concern for the plight of black landowners led to the founding of the ELF

and whose inspiration had been the driving force behind the ELF since its inception in 1971 (ELF, 1980, p. ix).

Early on, Browne and his colleagues at the Black Economic Research Center identified intestacy as a major reason for the loss of African American land (Browne, 1973, p. 13). In June of 1971, a meeting was convened in Atlanta to address the issue of African American land loss and retention (Browne, 1973, p. 8). “A mandate was given to the Black Economic Research Center to proceed with the exploration of whatever avenue seemed promising in terms of locating information which might seem useful in land retention, acquisition and development efforts” (Browne, 1973, p. 13). In 1980, the ELF published its study entitled “The Impact of Heir Property on Black Rural Land Tenure in the Southeastern Region of the United States.” Prior to this study, no extensive research had been conducted on the subject [of heir property] and its ramifications” (ELF, 1980, p. x). The ELF study lamented that changing the tradition of allowing heir property creation in the African American community presented challenges due to the lack of reliable information. This lack of information exacerbated the existence and extent of problems associated with heir property. Prior to this report, there was a conspicuous absence of data relating to intestate realty, commonly known as “heir property” (ELF, 1980, p. 1). The ELF study noted that the number of African American fully-owned farms ... declined 58.9% between 1954 and 1969” (ELF, 1980, pp. 27–28). The ELF study acknowledged the difficulty in ascertaining the precise cause for the decline of black farms. It did attribute the decline, in part, to a number of black farm owners and operators being “heir title property owners” (ELF, 1980, p. 28). “The first most striking and profound characteristic of heir property is that it is acquired by operation law. It is not purchased, it is not given, it is not taken” (ELF, 1980, p. 38). No action is required on the part of the heir property owner to acquire his interest in the land.

### **Summary of the ELF Methodology**

The breadth of the sample size was “a stratified, random sample of black rural landowners in the southeastern United States.” The sampling design involved three stages:

**Stage I** used data from the 1974 United States Census of Agriculture and the Department of Agriculture’s Economics, Statistics and Cooperatives Service Survey (ELF, 1980). The 10 states comprising the southeastern United States were “divided into five relatively homogenous strata based on the number of parcels of black owned rural land” (p. 49). Counties of each state were then ranked based on the percentage of black-owned acreage compared to all other rural acreage (p. 50).

**Stage II** involved the compilation of parcels owned by African Americans within designated counties. A multilayered approach to the identification of the ethnicity of land owners was employed. The process of identifying the race of parcel owners included:

1. Contacting public officials such as tax assessors, tax collectors, and circuit clerks to identify black-owned parcels.
2. For those black parcel owners who could not be identified as indicated above, officials in the local sheriff’s office, retired tax assessors, retired tax collectors, adjacent property owners, community workers or other officials were contacted.
3. Once the two above steps were completed, the identities of the parcel owners “were verified

by having several of the knowledgeable local contacts identify the ethnicity of subsets of owners of parcels to assess their agreement or disagreement” (ELF, 1980).

The final level of ethnicity-verification of parcel owners involved interviews of landowners and community workers familiar with the landowners by ELF staff members who confirmed the owners’ race, address and ownership interest in the parcel (p. 53).

**Stage III** involved sample parcels being randomly selected from the list of parcels in Stage II. The sampling process started with the random drawing of black-owned parcels from selected states, Alabama, Louisiana, South Carolina, Mississippi, and Tennessee. The number of parcels selected were “based on the proportion of black owned parcels in the five selected states” (p. 54). Two counties from each of the selected states were chosen, and the black parcel owners from those counties were chosen in a similar manner.

Table 1 reflects heir property, non-heir property, total parcels, and heir property percentages in the sample in the ELF study. Until the ELF study, “there was a conspicuous absence of data” assembled examining the amount, impact, and means of resolving heir property issues in the African American community (p. 1). However, the question of the reason for African American land losses is still contemplated by researchers: “Some researchers place the blame on partition sales and legally suspect means” (p. 5). The ELF study also noted that partition sales are a key reason that heir property is susceptible to loss (p. 251). Browne (1973) concluded that tax sales, partition sales, and foreclosures were the leading causes of African American land loss (p. 51).

Table 1. Illustration of the Percentage of Heir vs. Non-Heir Property in the Five States Survey: Comparative Breakdown of Heir and Non-Heir Parcels in the Sample

State/County	Heir Property	Non-Heir Property	Total Parcels	Heir Percentage
Alabama	139	373	512	27
Limestone	25	116	141	18
Perry	114	257	371	31
Louisiana	56	123	179	31
St. Helena	41	74	115	36
Avoyelles	15	49	64	23
South Carolina	78	168	246	32
Harry	39	85	124	31
Jasper	39	83	122	32
Mississippi	168	402	570	29
Bolivar	47	98	141	33
Simpson	121	308	429	28
Tennessee	20	181	201	10
Meigs	3	11	14	21
Haywood	17	170	187	9
TOTALS	461	1,247	1,708	27

Browne also implored researchers to “examine rather closely the causes behind even the voluntary sales of land” (ELF, 1980). He then provided the following caveat to the assessment of the cause of African American land loss: “Unfortunately there are no figures on the amount of land being alienated from blacks by each of the foregoing means” (ELF, 1980). He added that providing a rough estimate might be possible, but due to “the scrutiny of such resources, the compilation of an approximate amount of land loss could not be justified” (ELF, 1980). The preponderance of evidence suggesting that African American land loss is a growing problem should prompt further research to determine the causes. Mitchell (2005) asserted, “Given the number of legal issues involved in many black land loss cases, one could reasonably expect that more than a handful of scholars would have published articles addressing any number of legal topics that are implicated” (p. 570). Mitchell (2005) added that the law has acted as a negative force in “shaping the destiny of many black land owners” (p. 559). The widespread fractional ownership of real property in the African American community is a major component of the historical legacy impacting many African American landowners. Moreover, there is a lack of empirical data on many issues affecting African American land ownership in the United States.

### **Partition Sales**

Not surprisingly, many scholars have concluded that, due to the large percentage of African American land being held as heir property, a major cause of land loss is due to partition sales. The ELF study “identified partition sales and voluntary sales as the primary causes of African American land loss, both of which stem from ownership of intestate or heir property” (Pennick, 2010). A partition sale results from a legal action called a partition lawsuit. An action for a partition is initiated when one or more joint-owners seek to divide real property: “Partition sales occur when any co-owner decides they want to liquidate their holdings” (Dyer et al., 2009). A suit for partition of land typically occurs as a result of one of the following actions taken by an heir: (1) a cotenant files a partition action, or (2) one or more heirs transfer their interest to a non-heir who then files a partition action. “Although partition sales involving black-owned property raise a number of compelling legal and socio-legal issues, few legal scholars have made the issue the central focus of any of their scholarship” (Mitchell, 2005, pp. 567–583). The legal issues involved in partition sales involve the identification of legal heirs, the determination of fractional interest, the proper notification of heirs, the valuation of property, objections by heirs and cotenant buyouts (National Conference of Commissioners on Uniform State Laws [NCCUSL], 2010). Some of the socio-legal issues include cultural issues, familial ties, and class status of cotenants. For example, these cotenant disputes “are dramas which generally involve parties whom Professor Marc Galanter calls ‘one-shotters’ – parties who rarely litigate, who are predominately members of the obedient middle-class and who suffer quietly the rules of law they were too unsophisticated to know or consider in advance of the conflict” (Lewis, 1994, pp. 331, 341). An acknowledgment and consideration of familial and traditional connections to real property is lacking in states’ statutory schemes.

The significance of cultural and familial values of land has also been largely ignored by courts in the United States. In *Chuck v. Gomes*, Chief Justice Richardson of the Hawaii Supreme Court urged the court to recognize no economic interest that might impact native landholdings: “Foremost it is the individual’s right to retain ancestral land in order to perpetuate the concept of the family homestead. Such right is derived from our proud cultural heritage ... [W]e must not lose sight of the cultural traditions which attach a fundamental importance to keeping ancestral



land in a particular family” (Chuck v. Gomes, 1975). In a case involving fractionalized shares of real property held by non-Native American and Native American cotenants, the Kansas District Court noted the net compensation after a sale at appraised value by some of the parties was of little value to an asset that represented their Native heritage: “[I]t appears less likely to the court that all of the parties will realize the full value of their interest in land if a public sale of property occurs. Even if the land is sold precisely at the appraised value, after the costs of this action are subtracted from the proceeds of the sale, some of the parties will receive precious little compensation for land which if nothing else, represents their Native American heritage.” These types of intangible facts are difficult to measure in a system driven by determining the maximum economic benefit from resources such as real property.

The ELF (1980) study reported, “There is little, if any, dispute that a sale for partition and division is the most widely used legal method facilitating the loss of heir property” (p. 273). The ELF study also identified partition sales as the most expedient and “most widely used method to clear up heir property problems and contends that partition sales have a devastating impact on black land retention” (pp. 82, 253). Casagrande (1986) attributes partition actions to more than 50% of recent land loss cases: “This dramatic drop in black ownership of land, termed ‘the largest single equity resource in minority hands in the South’ is estimated to have been the result of partition sales in over half the recent cases” (p. 756). While such assertions are unsupported by empirical studies, they should have been a clarion call for investigation and study by advocacy groups and civil rights organizations interested in the economic well-being of African Americans.

Mitchell (2005) noted that much of the literature by scholars on African American land loss due to partition sales rely upon anecdotal evidence and unsubstantiated claims. For example, an averment that the ELF filed is filled with cases of heirs who, against the strong objection of their families, initiated partition suits to force the sale of land. This practice is encouraged and frequently initiated by lawyers who wish to fill their coffers with the usual fees of 10% of the sales price of the land” (ELF, 1980, p. 292). Statements of this kind are anecdotal and do not provide the type of framework in which a researcher might formulate a basis for addressing such matters. Mitchell elucidated the problem associated with the lack of data to properly identify the loss of black-owned property due to partitions sales and how to remedy the problem. He offered two reasons for the lack of reported cases that might provide legal resources for reviewing and analyzing such cases.

Mitchell (2005) argued that many of the transactions may involve negotiations against a backdrop of what is perceived to be a rigged market: “In these cases, the mere threat that a partition action may be initiated could precipitate a ‘voluntary’ transaction, at least what would appear to be a voluntary sale from the four corners of the documents recording the transaction” (p. 599). The dilemma facing heir property owners is to either risk litigating a partition action and incur significant court costs, lawyer fees and ancillary expenses, or alternatively, to enter into a voluntary sale. “Such fees and transaction costs could leave them with a net loss in comparison to the money they would net from voluntary sale” (Mitchell, 2005, p. 599). Locating representative cases is problematic. While it is possible that partition cases involving black litigants exist, “records for these cases are inaccessible because they exist only in local courthouses that tend to be located in small towns dotted across the rural South” (Mitchell, 2005, p. 600). Mitchell’s responses regarding the lack of cases involving partition actions by African American property owners are not mutually exclusive. It is not difficult to conclude that heir property owners rarely litigate either due to a lack

of resources or because their fractional interest may not satisfy the investment in litigation costs. “Given that the most recent agricultural census reveals that more than 80% of black farm operators earned less than \$10,000 in annual sales, it is apparent that many who fall into the class of black rural landowners do not have the financial wherewithal to conduct protracted litigation” (Mitchell, 2005, p. 600).

### Survey of Pigford Claimants, Analysis, and Results

In an effort to address several of the problems in the ELF study noted by academics and practitioners, the authors of this study conducted a survey based on a population of 10,000 potential claimants under Pigford 1 and Pigford 2. Pigford 1 and Pigford 2 were, respectively, lawsuits brought by African American farmers in the late 1990s and early 2000s, claiming discriminatory practices by the USDA. Nine hundred sixty-seven (967) randomly selected participants responded to the survey. It comprised 44 questions, which addressed several issues of importance. The response rate was about 10%, and this was sufficient for analysis. The authors calculated the number of observations required to ensure statistical significance at the 95% level, with a standard deviation of 1.5 units, and given a 10,000 potential respondents population. That number is 965 respondents (checkMarket.com, 2019). The results reported here focus on heir property portion of the survey.

Table 2 shows the proportion of respondents who have a portion of their farms on heir property. A little over one-third (35%) of respondents answered yes to the question, which is slightly higher than shown in the aggregate of the ELF study (27%); yet reasonably confirms the ELF study. Over three-fifths (65%) of the respondents indicated that none of their farms was on heir property.

Table 2. Proportion of Respondents who have a Portion of Farm on Heir Property (n = 967)

Variable	Frequency	Percent
Is/was any portion of your Farm on heir property?		
Yes	341	35.3
No	626	64.7
Total	967	100.0

To determine the degree of influence heir property may have on farming/ranching operations, respondents were asked what proportion of farm operations were conducted on heir property. Twenty-seven percent indicated 10% or less; 44% indicated 11-50%, and 21% indicated over 51%. The ELF study had no data on this metric; yet, it seems critical that 71% of the respondents indicated heir property affected 50% or less of their farming operations. Although not shown in the Table 3, only about one-third of those constrained by heir property operations have attempted to address the issues of rights and interest in their real property. This issue will be expanded on later in the paper.

Table 3. Respondents' Perceived Percentage of Farm on Heir Property

Variable	Frequency	Percent
If yes to farm on heir property, what percentage is on heir property?		
10% or less	92	27.0
11-50%	150	44.0
51-75%	11	3.2
76-90%	7	2.1
91-100%	52	15.2
No Response	29	8.5
Total	341	100.0

The authors also considered the significance of factors that influenced the decision to continue in farming operations. They used binary logistic regressions to capture any such influences. The binary regression had a dependent variable, farm now, and three independent variables. The three independent variables were: (1) whether the farmer was paid under Pigford 1 or 2; (2) whether the farmer filed for relief under Pigford 1 or 2; and (3) the size of the farming operation. To discriminate between large and small, small farms were arbitrarily designated as farms with 100 acres or less and large farms were designated as greater than 100 acres. The empirical regression equation is:

$$\text{Farm now} = \alpha + \beta_1 \text{Paid} + \beta_2 \text{Pigford 1 or 2} + \beta_3 \text{Size} + \varepsilon \quad (1)$$

Where farm now is continue farming, or current agriculture operation (1 continue farming, 0 otherwise);  $\alpha$  is the intercept; paid, denotes relief under Pigford 1 or 2 (1 if paid, 0 otherwise); Pigford 1 or 2, reflects filing a claim (1 if yes, 0 otherwise); size depicts the large versus small farming operation (1 if small, 0 otherwise);  $\beta_i$  represents beta coefficients; and  $\varepsilon$  is the error term.

Table 4 shows the logistic regression results for all farmers regarding farm now and the explanatory factors. The coefficients, respectively, 0.581 and -0.727, for "paid" and "size" were significant at the 1% level. Additionally, the coefficient, 0.559, for "filing for relief under Pigford 1 or Pigford 2" was significant at the 5% level. The effects of "paid" and "filing under Pigford 1 or Pigford 2" were positive. However, the effect of "size" was negative. The odds ratio of 1.788 for "paid" means that if a farmer was paid under Pigford 1 or 2, he or she was nearly 2 times more likely to continue farming. The odds ratio of 1.749 for "filing for relief under Pigford 1 or Pigford 2" means that if a farmer was granted relief under Pigford 1 or 2, he or she was nearly 2 times more likely to continue farming. Similarly, the odds ratio of 0.483 for "farm size" means that if a farmer had a small farm size, he or she was nearly 0.50 times less likely to continue farming. The Log-Likelihood p-value of 0.0001, shows that the overall model was significant at the 1% level; that is, the independent variables, "being paid under Pigford", "filing a claim under Pigford 1 or 2", and "farm size" jointly had a significant impact on farm now or continue farming.

Table 4. Logistic Regression Results for All Farmers Regarding Farm Now and Explanatory Factors

Variable	Estimate	P-Value	Odds Ratio
Intercept	-1.23	7E-04	
Paid	0.581***	0.009	1.788
P1 and P2 or No	0.559**	0.045	1.749
Farm Size	-0.727***	0.009	0.483

. Test that all slopes are zero

Statistic	DF	Value	P-value
G	1	20.8***	<0.0001
Log-Likelihood = -314.28316			

\*\*\*Significant at 1%; \*\*Significant at 5%

Table 5 reflects the logistic regression results for first generation farmers regarding farm now and the explanatory factors. The results appear to follow the same trend for the general group of farmers. The coefficients, respectively, 0.604 and -0.824, for “paid” and “size” were significant at the 1% level. Also, the coefficient, 0.705, for “filing for relief under Pigford 1 or Pigford 2” was significant at the 5% level. Once again, the effects of “paid” and “filing under Pigford 1 or Pigford 2” were positive. However, the effect of “size” was negative. The odds ratio of 1.829 for “paid” means that if a first generation farmer was paid under Pigford 1 or 2, he or she was nearly 2 times more likely to continue farming. The odds ratio of 2.025 for “filing for relief under Pigford 1 or Pigford 2” means that if a first generation farmer was granted relief under Pigford 1 or 2, he or she was nearly 2 times more likely to continue farming. Finally, the odds ratio of 0.439 for “farm size” means that if a first generation farmer had a small farm size, he or she was nearly 0.44 times less likely to continue farming. Just as in the case for all farmers, the Log-Likelihood p-value of 0.0001, shows that the overall model was significant at the 1% level; that is, the independent variables, “being paid under Pigford”, “filing a claim under Pigford 1 or 2”, and “farm size” jointly had a significant impact on farm now or continue farming, for first generation farmers.

Returning to the heir property question, the central topic of this paper, and having established a set of parameters that seem to be significant to continuing operations for African American farmers, Table 2 above indicates the level of heir property that was reported in the survey. Only about one-third (not shown in Table) of the 300+ respondents who reported heir property have taken any action to resolve the title issue. So the question is, will continuing farming, those who indicated they had little or no heir property, and farm size, affect heir property status or whether action has been taken to resolve a clouded title?

Table 5. Logistic Regression Results for First Generation Farmers Regarding Farm Now and Explanatory Factors

Variable	Estimate	P-Value	Odds Ratio
Intercept	-1.322	0.002	
Paid	0.604***	0.012	1.829
P1 and P2 or No	0.705**	0.035	2.025
Farm Size	-0.824***	0.007	0.439
Test that all slopes are zero			
Statistic	DF	Value	P-value
G	1	22.4***	<0.0001
Log-Likelihood = -247.97991			

\*\*\*Significant at 1%; \*\*Significant at 5%

Again, a binary logistical regression is used since farms encumbered by heir property or not is a binary response. The effects of three independent variables are used to assess the heir property issue. The empirical regression model has the form:

$$HPres = \alpha + \beta_1 \text{ farm now} + \beta_2 \text{ 10\% or less HP} + \beta_3 \text{ size} + \varepsilon \quad (2)$$

Where, HPres is the dependent variable, denotes whether action has been taken to resolve the cloud in a title of farmland or not (1 if action taken, 0 otherwise); “farm now” and “size” are the variables from Equation 1; and 10% or less HP represents respondents who had 10% or less of farm on heir property.

Table 6 reports the logistic regression results for all farmers regarding action taken to resolve clouded title and the explanatory factors. The coefficient of 0.592 for “farm now” or “continue farming” was significant at the 10% level. Also, the coefficients for 10% or less of farm on heir property and farm size, respectively, 0.028 and 0.287, were not significant. However, they seem to have positive impacts on action taken to resolve clouded title. The odds ratio of 1.808 for “farm now” means that farmers intending to continue farming were nearly 2 times more likely to take action to resolve clouded title. Furthermore, the Log-Likelihood p-value of 0.054, shows that the overall model was significant at the 5% level; that is, the independent variables, “farm now”, “10% or less of farm on heir property”, and “farm size” jointly had a significant impact on action taken to resolve clouded title issue.

### Conclusion

The study focuses on heir property issues related to African American farmers. It does so in two steps. First, it examines heir property and the ELF study. Second, it assesses factors affecting African American farmers continuing in farming and taking action to deal with clouded title on land used for farming. The methodology used was also in two steps. First, a thorough descriptive

Table 6. Logistic Regression Results for All Farmers Regarding Action taken to Resolve Clouded Title and the Explanatory Factors

Variable	Estimate	P-Value	Odds Ratio
Intercept	<b>-0.92</b>	<b>0.031</b>	
Farm now	0.592*	0.062	1.808
10% or less HP	0.028	0.923	1.029
Farm size	0.287	0.479	1.332

Test that all slopes are zero

Statistic	DF	Value	P-value
G	1	3.699**	0.054

Log-Likelihood = -209.26153

\*\*Significant at 5%; \*Significant at 10%

analysis was provided on heir property issues, including the ELF study. Second, a random sample of African American farmers was obtained, and members were surveyed on pertinent issues regarding farming and heir property. The results showed that although connections were made between heir property and partition sales and loss of African American land, there was a lack of empirical data to back this up. Also, examination of the ELF study showed that it also lacked substantial empirical data. Yet, it showed that 27% of African American landownership in the southeastern United States consists of heir property.

Additionally, the results of the survey revealed that African American land ownership consists of 35% heir property, which reasonably confirms the estimates or results of the ELF study. Additionally, 71% had 50% or less of farm operations on heir property. The logistic regression analysis showed that being paid a claim under Pigford, filing a claim under Pigford 1 or 2, and farm size had significant effects on continue farming. Also, continue farming had a significant effect on taking action to resolve a clouded title. In other words, those who choose to stay in farming were more likely to look for a way to resolve the title discrepancy whether the operation was large or small.

Overall, it can be surmised that, the degree to which heir property is contributing to land loss and substandard agricultural production will require additional data to supply generalizable conclusions. However, it seems clear that for those African American farmers who were discriminated against by the USDA and sought relief under Pigford 1 or 2, heir property played a role (although small) in both the loss of land and overall optimism of those engaged in agricultural production in any form.

One of the limitations of this study is the missing data from the 2017 Census of Agriculture with its schedule to be released later. This may provide a clear picture of the trends toward ranching

(noted in the 2012 Census of Agriculture) and updated farm-size metrics. Also, the conclusions drawn may be subject to survivor bias since the original mailing list was comprised of those who had been denied credit by the USDA in the late 1970s and early 1980s. Moreover, other questions asked seemed to indicate that many of the original farmers that sought relief were no longer able to recall the details.

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