

HOME BUYER'S GUIDE TO TITLE INSURANCE

Ways to Hold Title to Real Property

Open your next escrow with Lawyers Title!



| | COMMUNITY PROPERTY | COMMUNITY PROPERTY WITH RIGHT OF SURVIVORSHIP | JOINT TENANCY | TENANCY IN COMMON | PARTNERSHIP | TRUST |
|-----------------------|--|--|---|---|---|--|
| PARTIES | Spouses or domestic partners. | Spouses or domestic partners. | Any number of persons (can be spouses or domestic partners). | Any number of persons. | Any number of partners. | Any number of beneficiaries of the trust. |
| DIVISION OF INTERESTS | Equal. | Equal. | Equal. | Any number of interests, equal or unequal. | Partnership interests may be equal or unequal. | Beneficial interests under trust may be equal or unequal. |
| TITLE | In the names of the individual owners. | In the names of the individual owners. | In the names of the individual owners. | In the names of the individual owners. | In the name of the partnership. | In the name of the trustee, "as trustee." |
| POSSESSION | Equal right of possession. | Equal right of possession. | Equal right of possession. | Equal right of possession. | According to partnership agreement. | According to trust agreement. |
| CONVEYANCE | Both spouses must join in a conveyance. | Both spouses must join in a conveyance. | Conveyance by one co-owner breaks the joint tenancy. | Each co-owner's interest may be conveyed separately. | Any general partner authorized by the partnership agreement may convey. | Trustee may convey in accordance with the trust agreement. |
| DEATH | Decedent's 1/2 interest passes to survivor unless devised by will. | Decedent's 1/2 interest passes to survivor. | Decedent's interest passes to the survivor(s). | Decedent's interest passes to decedent's estate. | Partnership agreement provides for either termination or continuance of the partnership. | Trust agreement usually provides for distribution upon death of the settlor. |
| SUCCESSOR'S STATUS | Tenancy in common between devisee and survivor results. | Survivor owns entire interest. | Last survivor owns entire interest. | Devisees or heirs become tenants in common. | Heirs or devisee have rights in partnership interest but not in specific property. | Trust agreement usually provides for distribution upon death of the settlor. |
| CREDITOR'S RIGHTS | Community property is liable for the debts of either party incurred before or during marriage or domestic partnership. | Community property is liable for the debts of either party incurred before or during marriage or domestic partnership. | Co-owner's interest may be sold at an execution sale to satisfy the co-owner's judgment creditor. | Co-owner's interest may be sold at an execution sale to satisfy the co-owner's judgment creditor. | Only a partner's right to receive profits can be executed upon by the partner's judgement creditor. | Usually, a creditor cannot execute on a beneficiary's interest. |

This chart is for reference purposes only. How title is vested has important legal consequences, and this chart should not be relied upon to make that decision. You should consult an attorney to determine the most advantageous form of ownership for your particular situation. Someone who is not an attorney cannot give advice regarding how to hold title because doing so would constitute the unlawful practice of law. (03/08 TR) Information may vary state to state.

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