

Ways To Hold Title

TO REAL PROPERTY

	<i>Tenancy in Common</i>	<i>Joint Tenancy</i>	<i>Community Property</i>	<i>Community Property with Right of Survivorship*</i> <small>(Effective 7/1/2001)</small>
PARTIES	Any number of persons (can be husband and wife or registered domestic partners).	Any number of persons (can be husband and wife or registered domestic partners).	Only husband and wife. Registered domestic partners have community property rights.	Only husband and wife. Registered domestic partners have community property rights.
DIVISION	Ownership can be divided into any number of interests, equal or unequal.	Owner interests must be equal.	Ownership and managerial interests are equal.	Ownership and managerial interests are equal.
TITLE	Each co-owner has a separate legal title to his or her undivided interest.	There must be unity of title and time (created in one document).	Title is in the "community." Each interest is separate but management is unified.	Title is in the "community." Each interest is separate but management is unified. Title must expressly state community property with right to survivorship.
POSSESSION	Equal rights of possession.	Equal rights of possession.	Both co-owners have equal management and control.	Both co-owners have equal management and control.
CONVEYANCE	Each co-owner's interest may be conveyed separately by its individual owner.	Conveyance by one co-owner without the others will sever (terminate) that individual's joint tenancy.	Real property requires written consent of other spouse or registered domestic partner, and separate interest cannot be conveyed except upon death.	Real property requires written consent of other spouse or registered domestic partner, and separate interest cannot be conveyed except upon death.
PURCHASER'S STATUS	Purchaser will become a tenant in common with the other property co-owners.	Purchaser will become a tenant in common with the other property co-owners.	Purchaser can acquire title from the community with written consent or joinder of both spouses or registered domestic partners.	Purchaser can acquire title from the community with written consent or joinder of both spouses or registered domestic partners.
DEATH	On co-owner's death, his or her interest passes by will to that person's devisees or heirs. No survivorship right.	On co-owner's death, his or her interest ends and cannot be disposed of by will. Survivor(s) own(s) the property. An affidavit of death of joint tenant establishes death.	Upon death of one spouse or registered domestic partner, 50% belongs to surviving spouse or registered domestic partner, 50% goes by will to descendant's devisees or by succession to surviving spouse or registered domestic partner.	Upon death of one spouse or registered domestic partner, his or her interest ends and cannot be disposed of by will. Survivor owns the property 100%. An affidavit of death (community property with right of survivorship) establishes death of a spouse or registered domestic partner.
SUCCESSOR'S STATUS	Devisees or heirs become tenants in common.	Last survivor owns property 100%.	If passing by will, tenancy in common between devisees and survivor results.	Purchaser can only acquire whole title of community; cannot acquire a part of it.
CREDITOR'S RIGHTS	Co-owner's interest may be sold on execution sale to satisfy his or her creditor. The creditor becomes a tenant in common.	Co-owner's interest may be sold on execution sale to satisfy creditor. Joint tenancy is broken; creditor becomes tenant in common.	Property of community is liable for contracts of either spouse or registered domestic partners which were made after marriage and prior to or after January 1, 1975. Co-owner's interest cannot be sold separately; whole property may be sold on execution to satisfy creditor.	Property of community is liable for contracts of either spouse or registered domestic partners which were made after marriage and prior to or after January 1, 1975. Co-owner's interest cannot be sold separately; whole property may be sold on execution to satisfy creditor.
PRESUMPTION	Favored in doubtful cases except husband and wife or registered domestic partners case.	Must be expressly stated. Not favored.	The legal presumption is that property which has been acquired during the course of the marriage or registered domestic partnership is community property or community property rights apply.	After July 1, 2001, there is no presumption. The code reads that deeds must state "community property with the right of survivorship."

*This manner of vesting took effect July 1, 2001, pursuant to California Civil Code 682.1. Portions of this chart are reprinted with permission from California Land Title Association



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