

# Ways to Take Title

New Vesting  
July 1, 2001

	TENANCY IN COMMON	JOINT TENANCY	COMMUNITY PROPERTY	*COMMUNITY PROPERTY WITH RIGHT OF SURVIVORSHIP
<b>Parties</b>	Any number of persons (can be husband and wife).	Any number of persons (can be husband and wife).	Only husband and wife.	Only husband and wife.
<b>Division</b>	Ownership can be divided into any number of interests, equal or unequal.	Ownership interests must be equal.	Ownership and managerial interests are equal except control of business is solely with managing spouse.	Ownership and managerial interests are equal except control of business is solely with managing spouse.
<b>Title</b>	Each co-owner has a separate legal title to his or her undivided interest.	There is only one title to the whole property.	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.
<b>Possession</b>	Equal right of possession.	Equal right of possession.	Both co-owners have equal management and control.	Both co-owners have equal management and control.
<b>Conveyance</b>	Each co-owner's interest may be conveyed separately by its individual owner.	Conveyance by one co-owner without the others will break that individual's joint tenancy.	Personal property (except "necessaries") may be conveyed for valuable consideration without consent of other spouse; real property requires written consent of other spouse, and separate interest cannot be conveyed except upon death.	Personal property (except "necessaries") may be conveyed for valuable consideration without consent of other spouse; real property requires written consent of other spouse, and separate interest cannot be conveyed except upon death.
<b>Purchaser's Status</b>	Purchaser will become a tenant in common with the other property co-owners.	Purchaser will become a tenant in common with other property co-owners.	Purchaser can only acquire whole title of community; cannot acquire a part of it.	Purchaser can only acquire whole title of community; cannot acquire a part of it.
<b>Death</b>	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 owns the property by survivorship.	On co-owner's death, 50% belongs to survivor in severally. 50% goes by will to decedent's devisees or by succession to survivor.	On co-owner's death, his or her interest ends and cannot be disposed of by will. Survivor owns the property by survivorship.
<b>Successor's Status</b>	Devisees or heirs become tenants in common.	Last survivor owns property in severally.	If passing by will, tenancy in common between devisees and survivor results.	Last survivor owns property in severally.
<b>Creditor's Status</b>	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 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 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.
<b>Presumption</b>	Favored in doubtful cases except husband and wife case.	Must be expressly stated. Not favored.	The presumption is very strong that property which has been acquired by husband and wife is community property.	The presumption is very strong that property which has been acquired by husband and wife is community property.
<b>**Possible Advantages/Disadvantages</b>	Co-owner interest are separately transferable.	Right of Survivorship (avoids probate).	Qualified survivorship rights. Mutual consent required for transfer. Surviving spouse may have tax advantage.	Right of Survivorship (avoids probate). Mutual consent required for transfer. Surviving spouse may have tax advantage.

\*Community property of a husband and wife, when expressly declared in the transfer document to be community property with right of survivorship, and which may be accepted in writing on the face of the document by a statement signed or initialed by the grantees, shall, upon the death of one of the spouses, pass to the survivor, without administration, pursuant to the terms of the instrument, subject to the same procedures, as property held in joint tenancy. Prior to the death of either spouse, the right of survivorship may be terminated pursuant to the same procedures by which a joint tenancy may be severed. *This section shall become operative on July 1, 2001 and shall apply to instruments created on or after that date.*

**\*\*THE FOREGOING IS PROVIDED FOR GENERAL INFORMATION ONLY. FOR SPECIFIC QUESTIONS OR FINANCIAL, TAX OR ESTATE PLANNING, WE SUGGEST YOU CONTACT AN ATTORNEY OR CERTIFIED PUBLIC ACCOUNTANT.**



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