



# First American Title Insurance Company

## COMMON WAYS TO TAKE TITLE TO RESIDENTIAL REAL PROPERTY

	TENANCY IN COMMON	JOINT TENANCY	COMMUNITY PROPERTY	COMMUNITY PROPERTY WITH RIGHT OF SURVIVORSHIP
<b>Parties</b>	Two or more persons <sup>1</sup> (may be husband and wife)	Two or more persons (may be husband and wife)	Husband and wife only	Husband and wife only
<b>Division</b>	Ownership can be divided into any number of interests, equal or unequal	Ownership interests must be equal	Ownership interests must be equal.	Ownership interests must be equal.
<b>Creation</b>	One or more conveyances (Law presumes interests are equal if not otherwise specified)	Single conveyance (creating identical interests). Vesting <u>must</u> <u>specify</u> joint tenancy or law presumes tenancy in common	Single conveyance or presumption from marriage	Single conveyance and parties must indicate consent which can be indicated on deed.
<b>Possession and Control</b>	Equal	Equal	Equal	Equal
<b>Transferability<sup>2</sup></b>	Each co-owner may transfer or mortgage their respective interest separately	Each co-owner may transfer their interest separately but tenancy in common results <sup>3</sup>	Both spouses must consent to transfer or mortgage	Both spouses must consent to transfer or mortgage
<b>Liens against One Owner</b>	Co-owner's interest not subject to liens of other debtor/owner but forced sale can occur	Co-owner interest not subject to liens of other debtor/owner but forced sale can occur if prior to the debtor's death.	Entire property subject to forced sale to satisfy debt of either spouse	Entire property subject to forced sale to satisfy debt of either spouse
<b>Death of Co-Owner</b>	Decedent's interest passes to his/her heirs by will or intestate	Decedent's interest automatically passes to surviving joint tenant ("Right of Survivorship")	Deceased's interest passes to spouse, except 1/2 of said interest may pass to devisee by decedent's will	Decedent's interest automatically passes to surviving spouse due to Right of Survivorship
<b>Possible advantages/ disadvantages</b>	Co-owner interests 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.

1. The term "persons" includes a natural person as well as a validly formed corporation, limited partnership, limited liability company, or general partnership. Trust property is vested in the trustee (normally a natural person or corporation).

2. Transfers by married persons may require a quitclaim deed from spouse for title insurance purposes.

3. If co-owners are married, property may be subject to legal presumption of community property—requiring consent of both spouses to convey or encumber title—despite vesting as "joint tenancy."

**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.**