

Three kinds of Real Estate Ownership

Please Note:

This information is being provided as a courtesy. It is just a brief description and it does not and is not intended to replace legal advice or opinion. Prior to the execution of any legal document an individual or entity should carefully review the instrument with an attorney in order to make an informed decision and to understand the scope and consequences of that instrument.

Joint Tenancy

A joint tenancy arrangement has very specific requirements, known as “the four unities.” The co-owners’ interests must be created at the same time and in the same document. Each owner must have an equal interest in the property and the right to use the entire property. Joint tenancy property is owned with a right of survivorship, so if one party dies, the property passes to the surviving owner. The joint tenancy agreement can be broken and converted to a tenancy in common, if one of the co-owners sells or transfers their share or a creditor uses the property to satisfy a judgment against one of the co-owners.

Tenancy in Common

A tenancy in common is less restrictive than a joint tenancy. Each owner has an individual interest in the entire property, with equal or differing value. It is important that any differences in ownership be noted in the ownership documents. This type of tenancy does not include a right of survivorship, so if one party dies, the deceased’s share of the property transfers to their estate. Each individual owner has the right to sell or transfer their interest in the property. If a creditor has a judgment against one of the co-owners, the creditor can use that person’s share in the property to satisfy the judgment.

Tenancy by the Entirety

In states where it is permitted, a tenancy by the entirety is only available to married couples. Similar to a joint tenancy, each spouse has an equal interest in the property and the right to the use of the entire property. This tenancy also includes a right of survivorship, so if one spouse dies, the property transfers automatically to the other spouse. However, the property can only be sold or transferred if both spouses agree and, in most states, the property can be used to satisfy a creditor’s judgment only if the judgment is against both spouses.