

HOLDING TITLE

HOLDING TITLE TO REAL PROPERTY

	TENANCY IN COMMON	JOINT TENANCY WITH RIGHT OF SURVIVORSHIP	COMMUNITY PROPERTY	COMMUNITY PROPERTY WITH RIGHT OF SURVIVORSHIP
PARTIES	Any number of persons. (Can be husband & wife)	Any number of persons. (Can be husband & wife)	Only husband & wife.	Only husband & wife.
DIVISION	Ownership can be divided into any number of interests, equal or unequal.	Ownership interest must be equal	Ownership interest must be equal.	Ownership interest must be equal.
TITLE	Each co-owner has a separate legal title to his 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.
POSSESSION	Equal right of possession.	Equal right of possession.	Equal right of possession.	Equal right of possession.
CONVEYANCE	Each co-owner's interest may be conveyed separately by its owner.	Each co-owner's interest may be conveyed separately by its owner.	Purchaser can only acquire whole title of community.	Purchaser can only acquire whole title of community.
PURCHASER'S STATUS	Purchaser will become a tenant in common with the other co-owners in the property.	Purchaser will become a tenant in common with the other co-owners in the property.	Purchaser can only acquire whole title of community.	Purchaser can only acquire whole title of community.
DEATH	On co-owner's death, his interest passes by will to the devisees or heirs. No right of survivorship.	On co-owner's death, his interest ends and cannot be disposed of by will. Survivor owns the property by right of survivorship.	On co-owner's death 1/2 belongs to survivor in severalty, 1/2 goes by will to descendent's devisees or by succession to survivor.	On co-owner's death, his interest ends and cannot be disposed of by will. Estate passes to survivor outside of probate.
CREDITOR'S RIGHTS	Co-owner's interest may be sold at execution sale to satisfy his creditor. Creditor becomes a tenant in common.	Co-owner's interest may be sold at execution sale to satisfy creditor. Joint tenancy is broken, creditor becomes tenant in common.	Co-owner's interest cannot be seized and sold separately. The whole property may be sold at execution sale to satisfy creditors.	Co-owner's interest cannot be seized and sold separately. The whole property may be sold at execution sale to satisfy creditors.
PRESUMPTION	Court will presume tenancy in common if not expressly stated husband and wife.	Must be expressly stated in writing and accepted. Court will not presume joint tenancy.	Strong presumption that property acquired by husband and wife is community.	Must be expressly stated in writing and accepted. Court will not presume joint tenancy. Both halves of community property are entitled to "stepped up" tax basis as of date of death of either spouse.

This document is intended for information purposes only. Each particular method of taking title has certain legal and tax consequences, thus you are encouraged to obtain advice from your Attorney and/or Certified Public Accountant to determine which way is best for you.