

# COMPARISON OF METHODS OF HOLDING TITLE

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	TENANCY IN COMMON	JOINT TENANCY	TENANCY IN PARTNERSHIP	COMMUNITY PROPERTY	*COMMUNITY PROPERTY with RIGHT OF SURVIVORSHIP (effective 7/01/2001)
<b>PARTIES</b>	Any number of persons (can be husband and wife).	Any number of persons (can be husband and wife).	Only partners (any number).	Only husband and wife.	Only husband and wife.
<b>DIVISION</b>	Ownership can be divided into any number of interests equal or unequal.	Owner interests must be equal.	Ownership interest is in relation to interest in partnership.	Ownership and managerial interests are equal.	Ownership and managerial interests are equal.
<b>TITLE</b>	Each co-owner has a separate legal title to his undivided interest.	There must be unity of title and time. (created in one document)	Title is in the "partnership".	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.
<b>POSSESSION</b>	Equal rights of possession.	Equal rights of possession.	Equal right of possession but only for partnership purposes.	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 owner.	Conveyance by one co-owner without the others will sever (terminate) that individual's joint tenancy.	Any authorized partner may convey whole partnership property. No partner may sell his interest in the partnership without the consent of his co-partners.	Real property requires written consent of other spouse and separate interest cannot be conveyed except upon death.	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 the other co-owners.	Purchaser can only acquire the whole title.	Purchaser can acquire title from the community with written consent or joinder of both spouses.	Purchaser can acquire title from the community with written consent or joinder of both spouses.
<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(s) own(s) the property. An affidavit of death of joint tenant establishes death.	On partner's death, his partnership interest passes to the surviving partner pending liquidation of the partnership. Share of deceased partner then goes to his estate.	Upon death of one spouse, 50% belongs to surviving spouse, 50% goes by will to descendant's devisees or by succession.	Upon death of one spouse, his or her interest ends and cannot be disposed by will. Survivor owns the property 100%. An affidavit of death (community property with right of survivorship) establishes death of a spouse.
<b>SUCCESSOR'S STATUS</b>	Devisees or heirs become tenants in common.	Last survivor owns property 100%.	Heirs of devisees have rights in partnership interest but not in specific property.	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.
<b>CREDITOR'S RIGHTS</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.	Partner's interest cannot be seized or sold separately by his personal creditor but his share of profits may be obtained by a personal creditor. Whole property may be sold on execution sale to satisfy partnership 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.	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.	Arises only by virtue of partnership status in property placed in partnership.	The legal presumption is that property which has been acquired during the course of the marriage is community property.	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 takes effect on July 1, 2001, pursuant to California Civil Code 682.1. Portions of this chart are reprinted from California Land Title Association. S2-3d (06/04)

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