

Common Ways For Individuals to Hold Title to Real Estate in Arizona

Community Property - Because Arizona is a community property state, there is a statutory presumption that all property acquired by husband and wife is community property. Community property is an estate of ownership between married persons only. Neither spouse, acting individually, may transfer or encumber real estate that is vested as community property. Upon death of one of the spouses, the deceased spouse's interest will pass by a will (if one exists) or intestate succession (if no will exists).

Community Property with Right of Survivorship - A community property estate between married persons that vests the title to real property in the surviving spouse provided it is expressly declared in the deed. This vesting has the tax benefits of holding title as "community property" and the ability to avoid probate through "survivorship rights."

Joint Tenancy with Right of Survivorship - Joint tenancy with right of survivorship is a method of co-ownership that gives title to the real property to the surviving tenant(s) upon death of a joint tenant owner. Title to real property can be held in joint tenancy by two or more individuals either married or unmarried. If a married couple acquires title as joint tenants with the right of survivorship, they must specifically accept the joint tenancy to avoid the presumption of community property.

Tenancy in Common - Tenancy in common is co-ownership where parties do not have survivorship rights and each owns a specific undivided interest in the entire estate.

Sole and Separate - Sole and separate property is real property owned by a spouse before marriage or any acquired after marriage by gift, descent or specific intent to hold the title separate from the estate of the marital community. If a married person acquires title as sole and separate property, his or her spouse must execute a disclaimer deed.

The ownership options listed above apply to individuals. Title to real estate can also be vested in corporations, general partnerships, limited partnerships, or in individuals or corporations acting as trustees pursuant to written trust agreements. If you wish to vest title in one of these entities, Westland Title Agency of Arizona recommends that you obtain competent legal and financial advice.



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