

Real Estate Title Options In Hawaii

Tenant in Severalty

A tenancy held by one person or a trust alone, “severed” from others. Real estate held as a tenant in severalty will pass as part of the person’s estate on his/her death.

Tenants in Common

A tenancy held by two or more persons. There is no right of survivorship between tenants in common and the interest of a deceased tenant (co-owner) in common passes as part of his estate. This means you can name in a Will or Trust who will receive your share of the property at your death. Creditors may reach the interest of any tenant (co-owner). Any tenant may opt to have the other tenants buy out his/her share or force the property to be sold to pay his share. Creation of a tenancy in common may result in a taxable gift or other adverse tax effects.

Joint Tenants

A tenancy held by two or more persons. The right of survivorship exists in a joint tenancy, and upon the death of a joint tenant, the interest of the deceased tenant (co-owner) passes to the surviving joint tenants in equal shares. Joint tenancy property is not part of a decedent’s estate. A Will or Trust may not be used to designate who will inherit the share of a joint tenant. Creditors may reach the interest of any tenant (co-owner). Any tenant may opt to have the other tenants buy out his/her share or force the property to be sold to pay his share. Creation of a joint tenancy may result in a taxable gift or other adverse tax effects.

Tenants by the Entirety

A tenancy available only to persons who are legal spouses. Tenancy by the Entirety provides protection from creditors of either spouse so long as it is not a joint debt of the spouses—this is a substantial advantage. If other persons such as children of the couple are added as legal owners, the tenancy by the entirety is automatically ended and the creditor protection is lost. Divorce also ends the tenancy by the entirety and converts the ownership to tenants in common. Only available in a few states including Hawaii and Oregon.