



PREFERRED  
MORTGAGE LOANS

**COMMON WAYS TO TAKE TITLE TO  
CALIFORNIA RESIDENTIAL REAL PROPERTY**

	TENANCY IN COMMON	JOINT TENANCY	COMMUNITY PROPERTY	COMMUNITY PROPERTY WITH RIGHT OF SURVIVORSHIP
<b>Parties</b>	Two or more persons (1) (may be husband and wife).	Two or more persons (may be husband and wife).	Husband and wife only.	Husband and wife only.
<b>Division</b>	Ownership can be divided into any number of interests, equal or unequal.	Ownership must be equal.	Ownership must be equal.	Ownership must be equal.
<b>Creation</b>	One or more conveyances (Law presumes interest are equal if not otherwise specified).	Single conveyance (creating identical interest). Vesting <u>must specify</u> joint tenancy or law presumes tenancy in common.	Single conveyance or presumption from marriage.	Single conveyance and parties must indicate consent, which can be indicated on deed.
<b>Possession and Control</b>	Equal	Equal	Equal	Equal
<b>Transferability (2)</b>	Each co-owner may transfer or mortgage their respective interest separately.	Each co-owner may transfer their interest separately but tenancy in common results (3).	Both spouses must consent to transfer or mortgage.	Both spouses must consent to transfer or mortgage.
<b>Liens against one owner</b>	Co-owner's interest not subject to liens of other debtor/owner but forced sale can occur.	Co-owner's interest not subject to liens of other debtor/owner but forced sale can occur if prior to the debtor's death.	Entire property subject to forced sale to satisfy debt of either spouse.	Entire property subject to forced sale to satisfy debt of either spouse.
<b>Death of Co-owner</b>	Decedent's interest passes to his/her heirs by will or intestate.	Decedent's interest automatically passes to surviving joint tenant ("Right of Survivorship").	Deceased's interest passes to spouse, except ½ of said interest may pass to devisee by decedent's will.	Decedent's interest automatically passes to surviving spouse due to Right of Survivorship.
<b>Possible advantages /disadvantages</b>	Co-Owner interests are separately transferable.	Right of Survivorship (avoids probate).	Qualified survivorship rights. Mutual consent required for transfer. Surviving spouse may have tax advantage.	Right of Survivorship (avoids probate). Mutual consent required for transfer. Surviving spouse may have tax advantage.

- 1) The term "persons" includes a natural person as well as a validly formed corporation, limited partnership, limited liability company, or general partnership. Trust property is vested in the trustee (normally a natural person or corporation).
- 2) For title insurance purposes, transfers by married person may require a deed be executed by the spouse, which relinquishes their interest in the property.
- 3) If co-owners are married, property may be subject to legal presumption of community property-requiring consent of both spouses to convey or encumber title-despite vesting as "joint tenancy".

Phone: 408.998.4343

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CA Dept. of Real Estate – Real Estate Broker #01273764

NMLS #2533989/303713



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**THE FOREGOING IS PROVIDED FOR GENERAL INFORMATION ONLY. FOR SPECIFIC QUESTIONS OR FINANCIAL, TAX OR ESTATE PLANNING, WE SUGGEST YOU CONTACT AN ATTORNEY OR CERTIFIED PUBLIC ACCOUNTANT.**

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