

Ways of Holding Title

In California

	Tenancy in Common	Joint Tenancy	Community Property	Community Property with Right of Survivorship
Parties	Any number of natural persons (including married or registered domestic partners) and/or legally formed entities (i.e., corporations, LLCs, and partnerships), or trustee(s) on behalf of a trust.	Any number of only natural persons (including married or registered domestic partners).	Married persons or registered domestic partners.	Married persons or registered domestic partners.
Division	Undivided fractional interests can be either equal or unequal.	Undivided fractional interests must be equal.	Undivided community interests are held equally.	Undivided community interests are held equally.
Title	Co-owners have separate legal titles to their respective undivided interests which do not necessarily need to all be acquired at the same time or in the same deed. Title is presumed to be held as Tenants in Common unless otherwise specified.	Co-owners' title, undivided interest, and possession must be acquired simultaneously in the same deed. The deed must expressly state that the property is held as joint tenants.	The separate interest(s) are subject to the community property interest of the spouse. The deed must expressly state that the property is held as community property.	The separate interests are subject to the community property interest of the spouse and must be acquired on the same deed.
Possession	Equal rights of possession; interests are undivided.	Equal rights of possession; interests are undivided.	Both co-owners have equal rights of possession; interests are undivided.	Both co-owners have equal rights of possession; interests are undivided.
Conveyance	Co-owners may separately convey or encumber their respective interests, however married or registered domestic partners may be subject to the community property interest of the spouse.	Co-owners may separately convey or encumber their respective interests; however, a conveyance under a Deed and a foreclosure under a Deed of Trust shall result in the severance (termination) of that individual's joint tenancy interest.	Conveyance (including encumbering under a Deed of Trust) requires the signature of both parties.	Conveyance (including encumbering under a Deed of Trust) requires the signature of both parties.
Death	Compliance with the Probate Code will be required to distribute and/or convey of record, an interest held by a natural person who is deceased. No right of survivorship.	A co-owner's death results in the termination of their interest in the joint tenancy estate, equally increasing or enlarging the interest(s) held by the surviving joint tenant(s). Constructive notice of the death may be established by a recorded affidavit.	Compliance with the Probate Code will be required to determine distribution of decedent's interest through disposition-by-will or, alternatively, statutory succession of the decedent's interest. No right of survivorship.	A co-owner's death results in the termination of that co-owner's interest and the surviving co-owner now holds title to the entire interest. Constructive notice of the death may be established by a recorded affidavit.



Ways of Holding Title *continued*

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Successor's Status	Distributee(s) in compliance with the Probate Code become(s) a tenant in common.	Last surviving co-owner holds title to the entire interest.	Distributee(s) in compliance with the Probate Code become(s) a tenant in common with the surviving spouse's 50% interest.	Surviving spouse holds title to the entire interest.
Interests of Creditors	Creditors only encumber the interest held by the individual co-owner/debtor; however, creditors encumber both co-owner/debtor interests when married persons, or registered domestic partners are co-owners.	Creditors only encumber the interest held by the individual co-owner/debtor; however, creditors may encumber both co-owner/debtor interests when married persons, or registered domestic partners are co-owners.	Creditors of one individual co-owner/debtor encumber the interests held by both co-owners.	Creditors of one individual co-owner/debtor encumber the interests held by both co-owners.
Presumption in Connection with the Statements Above	Only married couples or registered domestic partners.	Must be expressly stated in the deed.	The legal presumption is the property which has been acquired during the course of the marriage or registered domestic partnership is community property.	Must expressly state community property with right of survivorship.

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Please contact me for more information.



Stewart Title of California, Inc.
<Division>
<Name>
<Title>
<Address 1>
<Address 2>
<City, State ZIP>
<XXX.XXX.XXXX main>
<XXX.XXX.XXXX cell>
<Email>
<Website>

