

COMMON WAYS OF HOLDING TITLE TO REAL PROPERTY

How should I take ownership of the property I am buying?

This important question is one that Florida real property purchasers ask their real estate, escrow, and title professionals every day. Unfortunately, these professionals may not recommend a specific form of ownership, as doing so would constitute practicing law.

Because real property has become increasingly more valuable, the question of how parties take ownership of their property has gained greater importance. The form of ownership taken - the vesting of title - will determine who needs to sign documents involving the property and future rights of the parties to the property. These rights involve such matters as:

- Real property taxes
- Income taxes
- Estate taxes
- Gift taxes
- Transferability of title
- Exposure to creditors' claim

Concerning real property taxes, Florida law provides for a \$25,000.00 assessment exemption with respect to one's homestead. That is, the assessed value of your homestead will be reduced by \$25,000.00. The manner in which title is vested can have an affect on the availability of the exemption and as a purchaser, you may want to contact your local county tax collector to verify the availability of the exemption.

Also, how title is vested can have significant probate implications in the event of death.

North American Title advises those purchasing real property to give careful consideration to the manner in which title will be held. Buyers may wish to consult legal counsel to determine the most advantageous form of ownership for their particular situation, especially in cases of multiple owners of a single property.

Purchasers should consider the following definitions of common vesting as an information overview only. Consumers should not rely on these legal definitions. Purchasers should carefully consider their vesting decision prior to closing, and seek legal counsel should they be unfamiliar with the most suitable ownership choice for their particular situation.

Sole Ownership

Sole ownership may be described as ownership by an individual

or

Other entity capable of acquiring title. Examples of common vestings in cases of sole ownership are:

A Single Man/Woman

A man or a woman who has not been legally married. For example: Bruce Buyer, a single man.

An Unmarried Man/Woman

A man or woman who was previously married and is now legally divorced. For example: Sally Seller, an unmarried woman.

Co-Ownership

Estate by the Entirety

A form of vesting title to property acquired by husband and wife during their marriage. This estate is presumed when husband and wife acquire title, unless otherwise specified. Right of survivorship is inherent. Both spouses must join in the same instrument to mortgage or convey property.

Joint Tenancy

A form of vesting title to property owned by two or more persons, who may or may not be married, in equal interest, with the right of survivorship in the surviving joint tenant(s). Title must have been acquired at the same time, by the same conveyance, and the document must expressly declare the intention to create a joint tenancy estate with right of survivorship.

For example: Bruce Buyer and Barbara Buyer, husband and wife, as joint tenants with rights of survivorship (and not as tenants in common). When a joint tenant dies, title to the property automatically passes by operation of law to the surviving joint tenant(s). Therefore, joint tenancy property is not subject to disposition by will.

Tenancy in Common

A form of vesting title to property owned by any two or more individuals in undivided fractional interests. The fractional interests may be unequal quantity and may arise at different times. Each co-tenant may sell, lease or will to his/her heir that share of the property belonging to him/her. For example: Bruce Buyer, a single man, as to an undivided 3/4 interest, and Penny Purchase, a single woman, as to an undivided 1/4 interest, as tenants in common.

Other Ways of Vesting Title Include as a:

Corporation

A corporation is a legal entity, created by statute, consisting of one of more shareholders, but regarded under law as having an existence and personality separate from such shareholders.

Partnership

A partnership is an association of two or more persons who can carry on business for profit as co-owners, as governed by various partnership statutes such as the Uniform Partnership Act. A partnership may hold title to real property in the name of the partnership.

Trust

A trust is an arrangement whereby legal title to property is transferred by the grantor to a person called a trustee, to be held and managed by that person for the benefit of the people specified in the trust agreement.

For additional information you may access our website at www.nat.com.

Remember: How title is vested has important legal consequences. You may wish to consult legal counsel to determine the most advantageous form of ownership for your particular situation.

I/WE HEREBY ACKNOWLEDGE RECEIPT OF THIS DOCUMENT ON THIS _____ OF _____, _____ AND FURTHERMORE HAVE AGREED TO HOLD TITLE TO THE PROPERTY IN THE FOLLOWING MANNER:

NAME(s): _____

VESTING OF TITLE:

- single man (Sole Ownership)
- single woman (Sole Ownership)
- married man (Sole Ownership)
- married woman (Sole Ownership)
- husband and wife (Estate by the Entirety)
- Joint Tenancy (w/ right of survivorship)
- Tenancy in Common
- Trust
- Corporation
- Partnership

(PLEASE CHECK ALL THOSE THAT APPLY)

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