



**SOUTHERN
TITLE®**

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



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TITLE®**

	TENANCY IN COMMON	JOINT TENANCY	TENANCY BY THE ENTIRETIES	LIFE ESTATE / REMAINDER	TRUSTEE OR AS TRUSTEE.	TRUSTEE WITH FULL POWER TO . . .
Parties	natural persons or artificial entities with legal capacity to hold title to real property	two or more natural persons or artificial entities capable of holding title to real property	Husband and wife only	Natural person as life tenant; natural or artificial entity with capacity to hold title to real property as remainderman	two or more natural persons or entities with capacity to hold title to real property including corporation or a bank	two or more natural or artificial entities with capacity to hold title including a corporation or a bank
Division	undivided interests may be equal or unequal	undivided interests must be in equal shares	no division, neither party owns any separate property interest	life tenant usually owns fee; remainder is also in fee	two or more may hold title as "co-trustees" unless s. 689.07 applies.	trustees own the interest together as "co-trustees"
Creation	same conveyance or by operation of law	only in same conveyance; must express intent to include survivorship	only in same conveyance; if parties are actually husband and wife, tenancy is created unless contrary intent expressed	only in same conveyance; fee granted to remaindermen, subject to life estate reserved.	by conveyance to a named trustee who must have legal capacity to hold title	by conveyance to named trustee "with full power to convey or mortgage" the property
Possession and Control	each co-tenant has the right of possession and control	equal right of possession and control	equal right of possession and control	life tenant, only, has right of possession and control	owner has right of possession and control	trustee (not beneficiary) has right of possession and control
Transferability	each co-tenant may transfer or mortgage its undivided interest	a transfer, lease or mortgage by less than all tenants severs the joint tenancy	neither tenant has any interest, alone, to convey or mortgage	life tenant cannot convey fee without a specific power of sale in the conveyance creating or reserving the fee.	where no trust identified, individual holds and can convey title; otherwise, authority determined by review of the trust	trustee may convey free of any prohibition in the trust unless beneficiaries or the trust is recorded
Liens Against One Owner	liens attach to undivided interest of debtor	lien attaches but creditor must sue to sever the tenancy before enforcement	lien does not attach unless divorce occurs	liens attach to life tenancy; liens do not attach to remainder interest until it vests	judgments do not attach if title is in the trustee; if 689.07 applies judgments against individual "as trustee" will attach.	lien does not attach unless judgment or lien is against the trustee
Death of Co-Owner	interest descends; therefore, probate required	interest goes to co-tenants by operation of law and no probate is needed.	interest goes to spouse; no probate required	title vests in remainderman at death of life tenant by operation of law; no probate required.	if trust is valid, successor trustee holds title; if s. 689.07 applies, title descends to heirs.	new trustee succeeds to office of trustee if necessary; no probate required
Possible Advantage / Disadvantages	co-tenant can incur debts affecting property; poor market for individual interests, without all the interests to convey	avoids probate unless all co-tenants die	insulates interests from creditors of one spouse; avoids probate (unless both tenants die)	Life tenant can retain possession and use while title passes to heirs or remaindermen without probate	same as taking title individually	avoids probate; insulates property from debts of true owner (beneficiary)

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