

取得加州居民不動產產權的一般方法

	分權共有財產	聯權共有財產	夫妻共有財產	享有自動繼承權的夫妻共有財產
當事方	兩人或兩人以上 ¹ (可以是配偶或同居夥伴 ²)。	兩人或兩人以上 ¹ (可以是配偶或同居夥伴 ²)。	夫妻或同居夥伴。	夫妻或同居夥伴。
分配	所有權可分割成任意相等或不相等的份額。	所有權份額必須相等。	所有權份額必須相等。	所有權份額必須相等。
成立條件	單一或多份轉讓證書 (法律假定各個份額相等, 除非另有指定)。	單一轉讓證書 (確立相同的份額)。轉讓證書中 必須指定 聯權共有財產。	單一轉讓證書, 或依據婚姻或同居夥伴狀況所做的假定。	單一轉讓證書, 配偶或同居夥伴 必須 在契約上表示同意。
擁有與控制權	相等。	相等。	相等。	相等。
可轉讓性	各共有人可分別轉讓或抵押其份額。 ³	各共有人可分別轉讓自己的份額, 但產生的結果是分權共有財產。 ^{3 & 4}	配偶或同居夥伴雙方均 必須 同意轉讓或抵押。	配偶或同居夥伴雙方均 必須 同意轉讓或抵押。
一方所有人的留置權	除非為配偶或同居夥伴, 否則共有人的份額不受其他債務人/所有人留置權的限制, 但可以強制拍賣。 ⁴	共有人的份額不受其他債務人/所有人留置權的限制, 但如果在共有人/債務人的債務之前, 則可強制拍賣。	整件財產可強制拍賣, 以清償配偶或同居夥伴一方的債務。	整件財產可強制拍賣, 以清償配偶或同居夥伴一方的債務。
共有人死亡	死者的份額依據遺囑或無遺囑條例轉讓給繼承人。	死者的份額自動轉讓給健在的聯權共有人 (自動繼承權)。	除非遺囑另有規定, 否則死者 1/2 的份額將轉讓給健在的配偶或同居夥伴。	依據「自動繼承權」, 死者 1/2 的份額自動轉讓給健在的配偶或同居夥伴。
可能的利益/損失	共有人的份額可分別轉讓。 ³	自動繼承權 (免遺囑)。配偶繼承可能要繳稅。	有條件的遺產繼承權。轉讓需經雙方同意。健在的配偶或同居夥伴 ² 可能享受稅收優惠。	自動繼承權。轉讓需經雙方同意。健在的配偶或同居夥伴 ² 可能享受稅收優惠。

- 「人」包括自然人以及合法組成的公司、有限合夥人、有限責任公司或普通合夥人。信託財產歸屬於受託人 (通常是自然人或公司)。
- 除不能取得某些稅收優惠之外, 符合加州法律要求的同居夥伴可享有與夫妻共有財產相同的利益。附註: 兩個並無特定關係的人, 如果不存在其他婚姻或同居夥伴關係, 且符合其他法律要求, 則不論他們是 (a) 同性還是 (b) 異性, 只要符合年齡及殘障條件, 即構成同居夥伴關係。
- 出於產權保險目的, 已婚人士或同居夥伴執行的轉讓可能要求配偶/同居夥伴簽訂一份產權轉讓契約。
- 如果共有人為配偶或同居夥伴, 財產受「夫妻共有財產」法律假定的約束, 要求配偶/同居夥伴雙方同意才可轉移或抵押產權, 不管轉讓證書中是否登記為「聯權共有財產」。

上述內容僅做為一般資訊提供。如有問題或需進行財務、稅收及不動產規劃, 建議您連絡律師或註冊會計師。

2005年1月1日修訂,
以納入加利福尼亞州登記的同居
夥伴關係法內容。²



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Common Ways to Take Title to California Residential Real Property

	TENANCY IN COMMON	JOINT TENANCY	COMMUNITY PROPERTY	COMMUNITY PROPERTY WITH RIGHTS OF SURVIVORSHIP
Parties	Two or more persons ¹ (may be spouses or domestic partners ²).	Two or more persons ¹ (may be spouses or domestic partners ²).	Husband and wife or domestic partners.	Husband and wife or domestic partners.
Division	Ownership can be divided into any number of interests, equal or unequal.	Ownership interests must be equal.	Ownership interests must be equal.	Ownership interests must be equal.
Creation	One or more conveyances (Law presumes interests are equal if not otherwise specified).	Single conveyance (creating identical interests). Vesting must specify joint tenancy.	Single conveyance or presumption from marriage or domestic partnership.	Single conveyance and spouses or domestic partners must indicate consent which can be on deed.
Possession and Control	Equal.	Equal.	Equal.	Equal.
Transferability	Each co-owner may transfer or mortgage their interest separately. ³	Each co-owner may transfer his/her interest separately but tenancy in common results. ^{3&4}	Both spouses or domestic partners must consent to transfer or mortgage.	Both spouses or domestic partners must consent to transfer or mortgage.
Liens Against One Owner	Unless married or domestic partners, co-owner's interest not subject to liens of other debtor/owner but forced sale can occur. ⁴	Co-owner's interest not subject to liens of other debtor/owner but forced sale can occur if prior to co-owner's/debtor's debt.	Entire property subject to forced sale to satisfy debt of either spouse or domestic partner.	Entire property subject to forced sale to satisfy debt of either spouse or domestic partner.
Death of Co-Owner	Decedent's interest passes to his/her heirs by will or intestacy.	Decedent's interest automatically passes to surviving joint tenant (Right of Survivorship).	Deceased's 1/2 interest passes to surviving spouse or domestic partner unless otherwise devised by will.	Deceased's 1/2 interest automatically passes to surviving spouse or domestic partner due to Right of Survivorship.
Possible Advantages/Disadvantages	Co-owner interests may be separately transferable. ³	Right of Survivorship (avoids probate). May have tax disadvantages for spouses.	Qualified survivorship rights. Mutual consent required for transfer. Surviving spouse or domestic partner ² may have tax advantage.	Right of Survivorship. Mutual consent required for transfer. Surviving spouse or domestic partner ² may have tax advantage.

1. "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 (usually a natural person or corporation).
2. For domestic partners meeting California statutory requirements, benefits are same as community property except certain tax benefits may not be available. Note: Two unrelated persons who are either (a) same sex, or (b) opposite sex if they meet age or disability requirements, may be domestic partners provided that they are not then married or in a domestic partnership and comply with other statutory requirements.
3. Transfers by married persons or domestic partners may require a quitclaim deed form spouse/partner for title insurance purposes.
4. If co-owners are married or domestic partners, property may be subject to legal presumption of "community property" requiring consent of both spouses/partners to convey or encumber title notwithstanding vesting as "joint tenancy".

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

Revised as of January 1, 2005 to include California registered domestic partnership law.²



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