

Ways to Take Title in Arizona

There are several ways in which persons can take title to their property in Arizona, those of which are explained below. Arizona is a "Community Property" state and you may wish to consult an attorney, accountant or other professional before deciding how you want to take title. You should inform your escrow officer and lender as soon as possible of how you wish to take title to your home and exactly how your name(s) will appear on all documents. This allows them to prepare all documents correctly. (Changes later, such as adding or deleting an initial in your name, can delay your closing.)

Community Property

- Requires a valid marriage between two persons.
- Each spouse holds an undivided one-half interest in the estate.
- One spouse cannot partition the property by selling his or her interest.
- Requires signatures of both spouses to convey or encumber.
- Each spouse can devise (will) one-half of the community property.
- Upon death the estate of the decedent must be cleared through probate, affidavit or adjudication.
- Both halves of the community property are entitled to a stepped up tax basis as of the date of death.

Community Property with the Right of Survivorship

- Requires a valid marriage between two persons.
- Each spouse holds an undivided one-half interest in the estate.
- One spouse cannot partition the property by selling his or her interest.
- Requires signatures of both spouses to convey or encumber.
- Estate passes to the surviving spouse outside of probate.
- No court action required to clear title upon the first death.
- Both halves of the community property are entitled to a stepped up tax basis as of the date of death.

Joint Tenancy with the Right of Survivorship

- Parties need not be married; may be more than two joint tenants.
- Each joint tenant holds an equal and undivided interest in the estate, unity of interest.
- One joint tenant can partition the property by selling his or her joint interest.
- Requires signatures of all joint tenants to convey or encumber the whole.
- Estate passes to surviving joint tenants outside of probate.
- No court action required to clear title upon the death of joint tenant(s).
- Deceased tenant(s) share is entitled to a stepped up tax basis as

of the date of death.

Tenancy in Common

- Parties need not be married; may be more than two tenants in common.
- Each tenant in common holds an undivided fractional interest in the estate. Can be disproportionate, e.g., 20% and 80%; 60% and 40%; 20%, 20%, 20% and 40%; etc.
- Each tenant share can be conveyed, mortgaged or devised to a third party.
- Requires signatures of all tenants to convey or encumber the whole.
- Upon death the tenant's proportionate share passes to his or her heirs by will or intestacy.
- Upon death the estate of the decedent must be cleared through probate, affidavit or adjudication.
- Each share has its own tax basis.

[Buyer Reference Materials](#)