



Vesting: Ownership of Property

The concept of "title" can be loosely translated to mean "the ownership" of real property. "Vesting" (sometimes referred to as "holding title" or "taking title") is the manner in which people or entities hold this ownership or a partial interest in the ownership of the property.

These are the three most common ways in Oregon in which multiple individuals can be vested together in real property :

TENANTS BY THE ENTIRETY

Applicable to legally married couples only; the spouses own the property together as one entity. Upon the death of one spouse, the survivor owns the entire interest in the property. The property is not subject to the probate of the deceased spouses' estate.

TENANTS IN COMMON

In this form of vesting, each individual—called a co-tenant—owns specific percentage interests in the property. Each co-tenant may sell his/her own interest in the property independently of other interests. Upon death, the interest of the deceased passes into the deceased's estate; therefore, the ownership interest is subject to probate.

RIGHTS OF SURVIVORSHIP

Although *Oregon has no joint tenancy in real property*, this form of vesting is a "backdoor" attempt to create it. Each owner in the property has a life estate: That is, an interest in the property for only as long as they live. The individual who outlives his/her fellow holders of life estates ends up owning the property. Individuals may choose to use this form of vesting who want to hold title in a manner that avoids probate and enables sole survivor to retain ownership.

The manner and form of a property owner's vesting has significant legal, tax, and estate planning consequences. Individuals and entities are encouraged to consult with an attorney to make sure that the chosen form of vesting has no unforeseen consequences, and that the form of vesting is compatible with the intent.

Changes in Vesting

Most often deeds, when signed and recorded in the county records, are used to transfer ownership or change the form of vesting. However, decisions of a state circuit court as filed (i.e. dissolution of marriage, probate of a deceased individual, "quiet title" suits or other lawsuits) will also transfer ownership or change the form of vesting. The important thing to remember is that only documents or actions in the public records will be considered in a title insurance policy.