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Wills, Trusts, and Estates for
Legal Assistants

Sixth Edition



Chapter 15

CO-OWNERSHIP OF PROPERTY

Chapter Objectives

- Explain the attributes of property held in tenancy in common
- Explain the attributes of property held in joint tenancy
- Describe the circumstances in which a gift of joint tenancy property becomes irrevocable
- Define tenancy by the entirety
- Understand the ownership of marital property under a community property system

Types of Co-Ownership

- Tenancy in Common
- Joint Tenancy
- Tenancy by the Entirety
- Community Property

Tenancy in Common

- Concurrent property ownership in which two or more persons (cotenants) own equal or unequal undivided fractional shares of the property, on death, a cotenant's share passes by testate or intestate succession.



Joint Tenancy

- Concurrent property ownership in which two or more persons (joint tenants) own equal undivided fractional shares of property with right of survivorship; on death, a joint tenant's share passes to the remaining joint tenants by operation of law.



Survivorship

- **Survivorship:** the right to succeed to property on a joint tenant's death by operation of law.
- At common law, the survivorship feature attached automatically to a joint tenancy. The presumption of survivorship often led to unanticipated property distributions as co-owners held as joint tenants when they intended to hold as tenants in common. Non-legally trained individuals did not appreciate the significant difference between these two types of concurrent ownership. Consequently, many states now provide that the survivorship feature does not attach to a joint tenancy unless it is expressly stated in the instrument.

Tenancy by the Entirety

- Special kind of joint tenancy between spouses.



Community Property Marital Property System

- A system in which one-half of each spouse's income vests in the other spouse.
- Nine states use a **community property marital property system**—Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington, and Wisconsin.

