

COMMON WAYS OF HOLDING TITLE (VESTING)

	Tenancy by the Entireties	Joint Tenancy	Tenancy In Common	Partnership Holding Title	Trust Holding Title	Joint Tenants with Full Right of Survivorship
Parties	Only Married Spouses	Any number of persons (can be Married Spouses)	Any number of persons (can be Married Spouses)	Only partners (any number)	Individuals, groups of persons, partnership or corporations, a living trust	Any number of persons (can be married)
Division	Ownership and managerial interests are equal (except control of business is solely with managing spouse)	Ownership interest must be equal	Ownership can be divided into any number of interests equal or unequal	Ownership interests in relation to interest in partnership	Ownership is a personal property interest and can be divided into any number of interests	Ownership and managerial interests are equal
Title	Title is in both parties. Each owns an undivided interest in the whole.	Sale or encumbrance by joint tenant severs joint tenancy	Each co-owner has a separate legal title to his/her undivided interest	Title is in the "partnership"	Legal title is held by the trustee; beneficiary has equitable title	Title is in all parties. Each owns an undivided interest in the whole.
Possession	Both co-owners have equal management and control	Equal right of possession	Equal right of possession	Equal right of possession but only for partnership purposes	Right of possession as specified in the trust provisions	All co-owners have equal management and control.
Conveyance	Both spouses must join in conveyance. The exception is in the case of divorce, where one spouse can deed to the other.	Title is held jointly. Conveyance by one co-owner without the others breaks the joint tenancy	Each co-owner's interest may be conveyed separately by its owner	Any authorized partner may convey part or entire interest in partnership property for partnership purposes. Purchaser acquires interest that partnership owned	Designated parties with the trust agreement authorize the trustee to convey property. Also a beneficiary's interest in the trust may be transferred. <i>*If allowed by the Trust Agreement</i>	Right of survivorship may be terminated only by a deed from all joint tenants.
Purchaser's Status	Purchaser can only acquire whole title cannot acquire a part of it	Purchaser will become a tenant in common with the other co-owners in the property as to the purchaser's interest. Other owners may remain joint tenants	Purchaser will become a tenant in common with other co-owners in the property	Purchaser can acquire part or entire interest in partnership property. If in part, the purchaser will become a tenant in common with the partnership	A purchaser may obtain a beneficial interest by assignment or may obtain legal and equitable title from the trust	Purchase can acquire whole title, cannot acquire a part of it.
Death	Upon the death of a co-owner, title passes to the survivor when a death certificate is recorded.	On co-owner's death his/her interest ends and cannot be disposed of by will. Survivor owns the property by survivorship	On co-owner's death his/her interest passes by will to devisee or heirs. No survivorship right	On partner's death his/her partnership interest passes to the surviving partner pending liquidation of the partnership. Share of deceased partner then goes to his/her estate <i>*subject to the terms of the Partnership Agreement</i>	Successor beneficiaries may be named in the trust agreement, eliminating the need for probate	Upon the death of a joint tenant, his/her interest passes to the surviving joint tenants, without administration, subject to the same procedures as property held in joint tenancy
Successor's Status	Surviving spouse owns the entire interest.	Last survivor owns property	Devisee or heirs become tenants in common	Heirs or devisee have rights in partnership interest but not specific property <i>*subject to the terms of the Partnership Agreement</i>	Defined by the trust agreement, generally the successor becomes the beneficiary and the trust continues	Surviving joint tenant(s) own the entire interest.
Creditor's Rights	Property owned as TBE are not subject to debts of only one spouse, except for Federal Liens.	Co-owner's interest may be sold on execution sale to satisfy creditor. Joint tenancy is broken, creditor becomes a tenant in common	Co-owner's interest may be sold on execution sale to satisfy his/her creditor. Creditor becomes a tenant in common	Partner's interest may be sold separately by "Charging Order" by his/her personal creditor, or his/her share of profits may be obtained by a personal creditor. Whole property may be sold on execution sale to satisfy partnership creditor	Creditor may seek an order for execution sale of the beneficial interest or may seek an order that the trust estate be liquidated and the proceeds distributed	Property owned as JTWFROS is not subject to most debts of one tenant, except for Federal Liens.
Presumption	Strong presumption that property acquired by Married Spouses is Tenancy by the Entireties	Must be expressly stated	Favored in doubtful cases except Married Spouse cases	Arise only by virtue of partnership status in property placed in partnership	A trust is expressly created by an executed trust agreement	Must be expressly stated

TENANCY FORM

File: _____

There are different ways in which a buyer can hold title to real property in Michigan. The attached is a general outline of the types of tenancy available in Michigan. We encourage you to speak with your attorney regarding any questions and to determine what tenancy is best for you. Once you make the determination of how you want to hold title, please complete the attachment so that the deed can be prepared accordingly.

Tenancy Election:

I am purchasing as an individual or single Entity: _____

Name(s) of Grantee(s):

Signature of Buyer

Date

Signature of Buyer

Date

Signature of Buyer

Date

Signature of Buyer

Date



DIFFERENT WAYS TO HOLD TITLE

There are different ways individuals can hold title (tenancy) in Michigan when **MORE THAN ONE** are in title together. The types and characteristics include:

1. TENANTS IN COMMON:

- The most common form of ownership in Michigan. If no tenancy is indicated, it is assumed to create a tenancy in common.
- Each party has an individual ownership interest in a portion of the property and the right to use the whole.
- Can be equal or unequal ownership interests.
- Does not provide for survivorship rights.
- Upon death, the title interest of a tenant in common passes to her/his heirs, not the other tenant in common.

2. JOINT TENANTS:

- Provides for survivorship rights.
- One joint tenant can convey his interest to a 3rd party, that joint tenancy is severed, and the parties become tenants in common.
- Upon death, the title interest of a joint tenant passes to the other joint tenants.

3. JOINT TENANTS WITH FULL RIGHTS OF SURVIVORSHIP

- Same characteristics as joint tenants, exception that survivorship may not be severed by a conveyance out to a 3rd party from less than all parties.
- If one joint tenant conveys to a 3rd party, the joint tenant that conveyed the interest must survive the other remaining joint tenants for the 3rd party to retain title.

4. MARRIED TO EACH OTHER a/k/a TENANTS BY THE ENTIRETIES:

Available for married couples through Michigan statute or federal case law.

- “Best” type of tenancy; most difficult to break.
- Not automatically created if parties become married after they acquire title.
- Neither spouse can convey to a 3rd party without the other joining and both spouses must convey on the same instrument, although the document may be executed and notarized in two separate locations.