



Common Title Vesting for Real Property in Oregon

AS AN INDIVIDUAL MAN/WOMAN

An individual may hold title in his or her name alone, whether married or unmarried, e.g., Jane Doe, an individual. (Adding the words “an individual” is optional.) If the individual is married and is alone in title, the spouse has no right or title except in a dissolution proceeding or upon the death of the individual.

TENANTS BY THE ENTIRETY/MARRIED COUPLE

ORS 93.180 provides that a conveyance to a married couple is presumed to create a tenancy by the entirety. This is a survivorship estate as between the two persons, that is, the title held by the couple passes, upon the death of one spouse, to the survivor. No interest passes to the decedent’s estate.

A couple may choose to take title without the survivorship rights of a tenancy by the entirety, that is, as tenants in common, but this election must be stated expressly in the deed to them, e.g., John Doe and Jane Doe as tenants in common. In a tenancy in common, when one person dies, his or her interest passes by inheritance under the terms of the decedent’s will or by the rules of intestate succession.

TENANTS IN COMMON

ORS 93.180 provides that persons who are unmarried and take title together are presumed to be tenants in common, that is, each has an equal undivided interest in the property, but this may be spelled out, e.g., John Doe, Fred Jones, and Mary May, each as to an undivided one-third interest, as tenants in common. The fractions may vary as between the parties, if stated expressly.

SURVIVORSHIP ESTATE

ORS 93.180 provides that two or more individuals may take title in a survivorship estate. For two people who are unmarried, the election of a survivorship estate must be stated expressly in the deed, e.g., John Doe, Fred Jones, and Mary May, each as to an undivided one-third interest with rights of survivorship.

REGISTERED DOMESTIC PARTNERS

ORS 106.300 to 106.340 (because of the Oregon Family Fairness Act), two persons of the same sex may register themselves in a domestic partnership, provided that neither person is married or registered in a different domestic partnership. Two persons registered in an Oregon domestic partnership are afforded the same privileges, immunities, rights, and benefits afforded to married persons.

An Oregon domestic partnership couple may take title as tenants in common or with rights of survivorship, but should state their election expressly in their deed, e.g., John Doe and Fred Jones as tenants in common or John Doe and Fred Jones as Oregon registered domestic partners with the right of survivorship.

TRUST

A trust is an arrangement whereby legal title to the property is transferred by the grantor to a person called a trustee, to be held and managed by that person for the benefit of the people specified in the trust agreement, called beneficiaries, e.g., Mary May as Trustee of the Mary May Trust under Trust Agreement Dated January 1, 2015.

ENTITY

A recognized legal entity may hold title to real property in its legal name. Examples of legal entities include a general partnership, a limited partnership, a limited liability company and a corporation. (There are others besides these.) An entity should take title in its legal name as established in its state of origin.

The above summaries are some of the ways to take title to real property in Oregon and are provided for informational purposes only. There are significant tax and legal consequences on how to hold title. It is recommend contacting an Attorney and/or CPA for specific advice on how to hold title.