

Different Types of Property Ownership in Florida

Consult an attorney and accountant to determine the structure and documentation needed for you.

TENANTS IN COMMON (TIC)

Each of the owners owns a share of the property, which may be sold separately.

Florida law presumes equal ownership interests, unless specific percentages are written in the recorded deed. See Section 689.15, Florida Statutes.

Example: “To Bill Johnson and Mary Smith” would give Bill and Mary ownership of 50% each.

Unless a different type of ownership (see below) is specified, Florida law defaults to TIC.

TENANTS BY THE ENTIRETY (TBTE)

This applies only to a married couple, who should be identified in the deed as “husband and wife,” “husband and husband” “wife and wife” or “a married couple.”

TBTE status — which is automatic when that language is used — gives each spouse overlapping 100% interests with full rights of survivorship.

If one spouse dies, the other automatically owns the property outright.

This form of ownership is terminated by divorce, at which time it becomes a tenancy in common.

JOINT TENANTS WITH RIGHT OF SURVIVORSHIP (JTWRs)

This gives two or more unmarried co-owners legal rights to property largely similar to those granted to TBTE owners.

Example: “To Mark Wright and Bill Johnson, as joint tenants with right of survivorship.”

Each JTWRs co-owner has an equal and undivided interest. Upon the death of one co-owner, the remaining interest automatically passes to the surviving co-owner(s).

LIFE ESTATE (LE) WITH REMAINDER

This is the present interest to use a property for life, but leaves the remainder interest to another person or persons.

Example: “To Mary Smith for her lifetime, with the remainder to her sons Bill Johnson and Steve Johnson.”

The life estate holder has full rights to live in and use the property during their lifetime but may not dispose of the property beyond that.

The remaindermen has a future interest that follows a life estate and takes possession or use only upon the life estate holder’s death.

Note: There are different ways to create life estates — some allow for more flexibility than others (e.g., enhanced life estate or “Lady Bird” deeds).

TRUSTS

Deeding property into a trust (revocable, irrevocable, land trust, etc.) is another way of holding property to avoid probate and manage succession.

Trusts must be properly drafted before a property is transferred.

PARTNERSHIPS, LLCs, AND CORPORATIONS

Deeding property into a business entity (such as a partnership, LLC, or corporation) is another form of ownership.

Ownership is governed by the entity’s operating agreement, bylaws, or partnership agreement.

This is often used for investment or business purposes and provides liability protection, but changes the way ownership rights and transfers are handled.