



First American Title™

TENANCIES AVAILABLE FOR HAWAII REAL PROPERTY

The following is a general summary based on First American's underwriting standards. For specific questions or financial, tax or estate planning, we suggest you contact an attorney or certified public accountant.

	TENANCY in SEVERALTY	TENANCY in COMMON	JOINT TENANCY	TENANCY by the ENTIRETY
PARTIES	One Person	Two or More Persons ¹	Two or More Individuals	Individuals married to each other, reciprocal beneficiaries, civil unions, and "substantially" equivalent legal unions formed in another Jurisdiction. ²
DIVISION OF OWNERSHIP	N/A	Ownership can be divided into any number of interests, equal or unequal. Hawaii Law presumes that interests are equal if not specified.	Equal and Indivisible	Equal and Indivisible
CREATION	Single conveyance to Tenant	One or more conveyances to Tenants, at the same or different times	Single conveyance to Tenants creating equal and identical interests at the same time. Vesting must specify joint tenancy or law presumes a tenancy in common.	Single conveyance to Tenants that must indicate consent, which can be indicated on deed.
POSSESSION & CONTROL	Sole	Each tenant has undivided possession of the entire property according to his share and subject to rights of Co-Tenant(s).	Joint	Joint and Indivisible
CO-TENANTS CONSENTS REQUIRED FOR TRANSFER	N/A	Each Co-Tenant may transfer or mortgage his respective interest separately without consent of other Tenants.	Lender or underwriter may require. The conveyance by one Tenant severs the joint tenancy and creates a tenancy in common as to that interest	Yes
LIENS AGAINST ONE OWNER	Liens against sole owner generally attach to the property	Co-Tenant's interest generally not subject to liens of other Tenants but a forced sale can occur	Co-Tenant's interest generally not subject to liens of other Tenants but forced sale can occur if lien attaches prior to the debtor's death	Subject to forced sale to satisfy joint debt, but cannot attach property to satisfy one spouse's debt ³
RIGHTS OF SURVIVORSHIP	N/A	No	Yes	Yes

1. The term "Person" includes a natural person as well as a validly formed corporation, partnership, limited liability company, or other entity. A Trust is not an entity capable of holding title so conveyances must be to the trustee(s) of a trust "in trust".
2. Should the parties divorce or legally terminate the relationship the property becomes a tenancy in common.
3. Effective July 1, 2012, real property held in tenancy by the entirety may continue to have the same immunity from separate creditors of spouses or partners if conveyed into a joint or separate trusts under certain circumstances. HRS §509-2. Title must be held by individual spouses/partners as tenants by the entirety before being conveyed to their trust(s).