OLD REPUBLIC TITLE

Common Ways To Hold Title In Hawaii

	TENANT IN SEVERALTY	TENANCY IN COMMON	JOINT TENANCY	TENANTS BY THE ENTIRETY
Definition	Property held by one person, severed from all others.	Property held by 2 or more persons, with no right of survivorship.	Property held by 2 or more individuals (not corporations, partnerships, etc.) with right of survivorship.	Property held by spouses, with rights of survivorship.
Creation	Any transfer to one person.	By express act; also by failure to express the tenancy.	Express intention plus 4 unities of time, title, interest and possession (with statutory exception).	Express intention, only spouses. Divorce automatically results in tenants in common.
Possession	Total.	Equal right of possession.	Equal right of possession.	Equal right of possession.
Title	One title to one entity.	Each co-owner has a separate legal title to his undivided interest, will be equal interests unless expressly made unequal.	One title to the whole property since each tenant is theoretically deemed owner of whole; must be equal undivided interests.	One title in the marital unit.
Conveyance	No restrictions (check for release of marital rights, if any).	Each co-owner's interest may be conveyed separately by its owner; purchaser becomes tenant in common.	Conveyance of one co-owner's interest breaks his tenancy; purchaser becomes tenant in common.	Cannot convey without consent of spouse.
Effect Of Death	Entire property subject to probate and included in gross estate for federal & state death taxes.	Decedent's fractional interest subject to probate and included in gross estate for federal and state death taxes. The property passes by will to devisees or heirs, who take as tenants in common. No survivorship rights.	No probate and can't be disposed of by will; property automatically belongs to surviving co-tenants (last one holds in severalty). Entire property included in decedent's gross estate for federal estate tax purposes minus % attributable to survivor's contribution.	Right of survivorship so no probate. Same death taxes as joint tenancy.
Creditor's Rights	Subject to creditor claims.	Co-owner's fractional interest may be sold to satisfy his creditor who then becomes tenant in common.	Joint tenant's interest also subject to execution sale. Joint tenancy is broken and purchaser becomes tenant in common. Creditor gets nothing if debtor tenant dies before sale.	Only a creditor of both spouses can execute on property.
Presumed By Law	None.	Favored in doubtful cases; presumed to be equal interests.	Not favored so must be expressly stated.	Must be expressly stated.

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Old Republic strongly recommends that consumers confer with their title insurer as underwriting requirements vary among companies and further, obtain guidance and advice from qualified professionals, including attorneys specializing in Real Property, Trusts and/or Title Insurance to get more detailed, and current, information as to any particular situation affecting them.

Approved by SM 6.3.14

