



# Concurrent Interests

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February 2025



# Abbreviations

## Freehold Estates

FS = fee simple (absolute)  
FT = fee tail  
FTM = fee tail male  
FTF = fee tail female  
FTS = fee tail special  
FSD = fee simple determinable  
FSCS = fee simple subject to a condition subsequent  
FSEL = fee simple subject to an executory limitation  
LE = life estate  
LEAV = life estate pur autre vie

## Nonfreehold Estates

TY = term of years  
TW = tenancy at will  
TP = periodic tenancy  
TS = tenancy at sufferance  
ll = landlord  
t = tenant

## Future Interests

RV = reversion  
PR = possibility of reverter  
PT = power of termination (right of entry)  
RM = remainder  
VRM = vested remainder  
VRMSD = vested remainder subject to divestment  
VRMSO = vested remainder subject to open  
CRM = contingent remainder  
EI = executory interest  
ShEI = shifting executory interest  
SpEI = springing executory interest

## Concurrent Interests

TC = tenancy in common  
JT = joint tenancy  
TE = tenancy by the entirety  
CP = community property



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Code	Interest of O	Interest of A	Interest of B
O grants “to A and B”		TC	TC



Code	Interest of O	Interest of A	Interest of B
O grants “to A and B”	nothing	TC	TC



# Tenancy in Common

- The default concurrent interest
- Each tenant in common has equal rights to occupy the whole
- No right of survivorship



Code	Interest of O	Interest of A	Interest of B
O grants “to A and B”	nothing	TC	TC





Code	Interest of O	Interest of A	Interest of B
O grants “to A and B”	nothing	TC	TC
O grants “to A and B as joint tenants, with a right of survivorship”	nothing	JT	JT



# Joint Tenancy

- Now disfavored
- Requires the “four unities”
  - Time
  - Title
  - Interest
  - Possession
- Right of survivorship
- Can be converted to TC, unilaterally, through “severance”
  - Achieved by conveying one’s interest to a third party



Code	Interest of O	Interest of A	Interest of B
O grants “to A and B”	nothing	TC	TC
O grants “to A and B as joint tenants, with a right of survivorship”	nothing	JT	JT



Code	Interest of O	Interest of A	Interest of B
O grants “to A and B”	nothing	TC	TC
O grants “to A and B as joint tenants, with a right of survivorship”	nothing	JT	JT
O grants “to A and B as tenants by entirety”	nothing	TE	TE



# Tenancy by the Entirety

- Permitted only in 20 states
- Requires the “four unities” plus marriage
- Can be converted to TC, unilaterally, only through divorce
- Can be converted to FS (in one spouse), unilaterally, through release
- Right of survivorship
- Variation among states concerning:
  - Ability of each spouse to encumber his or her interest unilaterally
  - Ability of a creditor of one spouse to reach that spouse’s interest



# Main features of Community Property

- Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington
- *Applies only to Married Couples*
- *Underlying Principles:* equality and partnership
- *Distinction between Separate Property and Community Property*
  - (a) basic definitions
  - (b) presumption in favor of CP
    - doctrines of tracing and comingling
  - (c) treatment of "fruits" of SP
    - "Civil Law Rule": CP
    - "American Rule": SP except if they result from onerous effort of a spouse
  - (d) personal injury claims
- *Management of Community Property*
- *Transfers of Community Property*
  - (a) each spouse's share is inalienable unilaterally
  - (b) each spouse's share is devisable unilaterally
  - (c) special rules of intestate succession
- *Debts*
- *Divorce:*
  - SP: all or most goes to that spouse
  - CP: 3 states have "equal division" rule; 5 states have "equitable division" rule