

Kinds of Joint Ownership

Joint Tenants/Owners with Right of Survivorship (JTRS)

This kind of joint ownership is often used between married couples, and between parents and their adult children.

With JTRS, when one owner dies, that owner's share immediately transfers to the surviving owner(s) outside of probate. Even if your will says you want someone else to receive your share of a jointly owned asset, it will still go to the surviving owner(s) who can do whatever they want with it. One unintended consequence is that children from a previous relationship/marriage can be disinherited.

Tenants-in-Common

Under tenants-in-common joint ownership, when one of the owners dies, that owner's share will be distributed as directed in his/her will (or to the heirs if there is no will). It will not go to the other owner unless the will says so—and it will not avoid probate.

Community Property

Ten states—Alaska, Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington and Wisconsin—have a form of joint ownership between spouses called community property. Community property automatically goes to your surviving spouse unless your will states otherwise. (In Alaska, property is separate unless both parties agree to make it community property by a community property agreement or trust.)

Tenants-by-the-Entirety

This kind of joint ownership is available in some states and is only between spouses. When one spouse dies, his/her share automatically goes to the surviving spouse, even if the will says otherwise. Neither spouse can transfer his/her half to someone else without the other's approval.