



TITLE GUARANTY
HAWAII

TITLE & TENANCY

	Tenancy in Severalty	Tenancy in Common	Joint Tenancy	Tenancy by the Entirety
TENANCY DEFINITION	Property held by one party, severed from all others.	Property held by 2 or more persons, with no right of survivorship.	Property held by 2 or more individuals (no corporations, partnerships, etc). Includes right of survivorship.	Property held by a married couple or Hawaii registered Reciprocal Beneficiaries. Includes right of survivorship.
CREATION OF THE TENANCY	Any transfer to one party.	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. When terminated, automatically defaults to Tenancy in Common when the following event occurs: Divorce of a married couple; termination of a reciprocal beneficiary relationship; dissolution of a civil union.
POSSESSION	Total	Equal right of possession.	Equal right of possession.	Equal right of possession.
TITLE TO THE PROPERTY	One title in one property.	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 tenancy unit.
CONVEYANCE OF INTEREST	No restrictions (check re-lease of martial rights, if any).	Each co-owner's interest may be conveyed separately by its owner; purchaser becomes tenant in common.	Conveyance if 1 co-owner's interest breaks his tenancy; purchaser becomes tenant in common.	Cannot convey without the other tenant.
EFFECTS OF DEATH ON THE TENANCY	Entire property subject to probate.	Decedent's fractional interest subject to probate. The property passes, by will to devisees or to the heirs, who take as tenants in common. No survivorship rights.	No probate - cannot be disposed of by will; property automatically belongs to surviving co-tenants (last one holds in severalty).	Right of survivorship - no probate.
CREDITOR'S RIGHTS	Subject to creditor's claims.	Co-owner's fractional interest may be sold to satisfy a creditor who then becomes tenant in common.	Joint tenancy is broken and purchaser becomes tenant in common. Creditor gets nothing (as to the property) if debtor tenant dies before sale.	A judgment creditor only of both tenants can execute on property. Federal liens may attach to the property.

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