

# Ways to Take Title in Arizona

## **Community Property: (married couples only)**

Since Arizona is a community property state, by statute all property acquired by married persons is presumed to be community property unless stipulated otherwise. Community property ownership can apply only to married persons. The interest of a deceased spouse may pass either by Will or by Intestate Succession.

## **Community Property With Right of Survivorship: (married couples only)**

Community Property with Right of Survivorship is co-ownership by married persons providing for the surviving spouse to retain full title after the death of the other spouse. Allows for a stepped-up tax basis for Capital Gains Taxes to a surviving spouse. The married couple must specifically accept the right of survivorship.

## **Joint Tenancy With Right of Survivorship: (multiple persons)**

Joint Tenancy is a method of co-ownership that gives title to the last surviving Joint Tenant. If a married couple acquires title as joint tenants with right of survivorship, they must specifically accept the joint tenancy to avoid the presumption of community property.

## **Tenants In Common: (multiple persons)**

A method of co-ownership where the parties do not have survivorship rights and each owns a specific undivided interest in the entire title.

## **Sole and Separate:**

Real property owned by an unmarried person or by a spouse when acquired by gift or devise, descent or specific intent. When a married person acquires title as Sole and Separate Property, his/her spouse must execute a Disclaimer Deed.

## **Unmarried: (single individual)**

## **Trust: (please confirm with lender first)**

Please provide name of Trustees and name and date of the Trust. A full copy of the trust may be required for review. There are many different types of trusts that can be created through which one or more individuals or investors may take title, provided that the trust is validly formed under a trust agreement as provided under law in the state in which the trust was formed. A trust in itself, however, cannot hold title. A trustee must be named, who would hold title and authority for the trust, as set forth in a trust agreement.

## **Corporation; Limited Liability Company; General or Limited Partnership: Evidence of Formation & Authority:**

When title is taken in the name of a legally formed entity, there will be additional title requirements for the appropriate organizational documents for the entity, as well as evidence that the entity has been properly formed and filed in its state of origin. Those documents must also indicate who has been granted authority to sign on behalf of and bind the entity.

THIS INFORMATION IS PROVIDED BY FIDELITY NATIONAL TITLE AGENCY AS A COURTESY ONLY. TAKING TITLE TO REAL PROPERTY CAN RESULT IN LEGAL AND TAX OBLIGATIONS AND CONSEQUENCES, ESPECIALLY UPON THE DEATH OF AN INDIVIDUAL OWNER.

FOR MORE INFORMATION, YOU ARE ENCOURAGED TO CONTACT A PROFESSIONAL LEGAL OR TAX ADVISOR.



**Fidelity National Title Agency**