

Title Vesting Options in New Mexico

The Statements/Definitions below are for informational purposes only and are not intended as legal advice. In regard to the purchase of the above referenced property, the decision on how you would like to be vested in title to the property is yours and is not the title company's decision or responsibility. The title company cannot advise or assist you in any way to make this decision, you are however encouraged to seek legal advice from an attorney who can advise you regarding the effects of the New Mexico community property law as well as the law governing various kinds of tenancy.

One (1) Purchaser of the Property, choices are:

Single and Unmarried Persons: Single and unmarried persons may take title individually or as a joint tenant or as tenant in common with one or more other persons.

Married person, as their sole and separate property (**title company will require a current Sole and Separate Property Agreement be executed by you and your spouse**) **Note: New Mexico recognizes marriages created outside of the United States.**

SEPARATE PROPERTY: Separate property means:

- (1) Property acquired by either spouse before marriage or after entry of a decree of dissolution of marriage;*
- (2) Property acquired after entry of a decree entered pursuant to Sec. 40-4-3 NMSA 1978, unless the decree provides otherwise; (Legal Separation)*
- (3) Property designated as separate property by a judgment or decree of any court having jurisdiction;*
- (4) Property acquired by either spouse by gift, bequest, devise, or descent; and*
- (5) Property designated as separate property by written agreement between the spouses, including a deed or other written agreement concerning property held by spouses as joint tenants or tenants in common in which the property is designated as separate property. Sec. 40-3-8.1-5 NMSA 1978*

Trustee of a duly created Trust entitled _____. (Copy of Trust Agreement will be required for review by Title Company)

Legally formed artificial entity named _____. (Copy of Documents used to create the entity will be required for review by the Title Company)

Two or more purchasers, choices are:

Joint Tenants (rights of survivorship is one of the primary characteristics of joint tenancy. It means upon the death of one of the co-owners, his or her joint interest in the real property will pass automatically, by operation of law, to the surviving co-owner(s). 2Bl. Com. 183, 184

Tenants in Common (tenancy in common arises where two or more owners hold title to property, each having a right of possession and each owning an individual interest in the property. There is no right of survivorship. Each tenant may sell or will or dispose of his or her interest in the property without the other tenant(s) selling its interest. C.J.S. §§2-5.

Trustee of duly created Trust entitled _____.

(Copy of Trust Agreement will be required for review by Title Company)

Legally formed artificial entity named _____.

(Copy of Documents used to create the entity will be required for review by the Title Company)

Joint Tenants (w/Rights of survivorship)

- a. unmarried persons
- b. married to each other
- c. married but not to each other (Name and address of spouse)

Tenants in Common

- a. unmarried persons
- b. married to each other
- c. married but not to each other (Name and address of spouse)