

Illinois Common Forms of Vesting Title



	Tenancy In Common	Joint Tenancy	Tenancy by Entirety
Parties Involved	Any number of persons (can be spouses)	Any number of persons (can be spouses)	Parties must be legally married or in a civil union partnership
Division	Ownership can be divided into any number of interests, equal or unequal	Ownership interests are equal.	Ownership interests are equal.
Title	Each co-owner has a separate legal title to their undivided interest	Each co-owner has separate legal title to the undivided whole subject to the rights of survivorship in the other joint tenants	There is only one title to the whole property
Possession	Equal right of possession	Equal right of possession	Equal right of possession
Conveyance	Each co-owner's interest may be conveyed separately by its owner	Conveyance by one co-owner without the other breaks the joint tenancy.	The property cannot be conveyed unless both tenants by the entirety execute the deed. A divorce will change the tenancy to tenants in common.
Purchaser's Status	Purchaser of an undivided interest becomes a tenant in common with other co-owners	Purchaser of an undivided interest becomes a tenant in common with other co-owners	Cannot purchase one tenant's interest. Both tenants must agree to any sale of the property.
Upon Death	Upon co-owner's death, their interest passes through their probate estate, or to the heirs by intestate succession	Upon co-owner's death, their interest passes automatically to the survivor(s).	Upon co-owner's death, their interest passes automatically to the survivor.
Successor's Status	Portion passing through the probate estate or to the heirs will result in tenancy in common with the surviving tenant(s)	The last surviving joint tenant is the sole owner of the property provided the joint tenancy was not previously severed.	Surviving Tenant by the Entirety is the sole owner of the property, provided parties were still married at the time of the death of the other tenant, and the property was the primary residence at the time of death.
Creditor's Rights	Co-owner's interest may be sold on execution sale satisfy his creditor. Creditor becomes a tenant in common.	Co-owner's interest may be sold on execution sale satisfy his creditor. Joint tenancy is broken. Creditor becomes a tenant in common.	Co-owner's interest cannot be seized and sold separately except by Internal Revenue Services.
Presumption	When vesting (form of ownership) is not specified, tenancy in common is presumed by law	Must be expressly stated and properly formed	Must be principal residence. Must be expressly stated and properly formed. Must be married or in a civil union.

This table summarizes the most common forms of vesting: the form of ownership taken – the vesting of title – provides guidelines for how a property should be passed, should one or all of the property owners become deceased. To understand how a Last Will and Testament or Trust can also be used in this scenario, please consult legal counsel. To learn more about common forms of vesting in Illinois go to: bit.ly/il-vesting-title.

