

# LAWYERS LINK



## WAYS TO TRANSFER PROPERTY AUTOMATICALLY AT DEATH WITHOUT PROBATE

There are three common ways homeowners can ensure their property automatically transfers directly to someone else when they die, without going through probate.

Although the following vesting options transfer property automatically, the public record does not

update by itself. The surviving owner must still “clear title” by completing a few straightforward documents and filing them with the appropriate county office. This step ensures the legal records show the survivor as the new sole owner.

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## Joint Tenancy with Right of Survivorship

Joint Tenancy with Right of Survivorship (JTWROS) is a form of shared property ownership where each owner holds an equal and undivided interest in the entire property. This means all owners share the home equally.

The key feature is the Right of Survivorship. If one owner dies, their share automatically transfers to the surviving owner(s) without going through probate court. Because survivorship is built into the deed, everyone knows exactly what happens if one co-owner dies. The property stays with the surviving owner(s) – not with the deceased person's heirs.

Joint Tenancy with the Right of Survivorship is recognized nationwide.

## Community Property with the Right of Survivorship

Community Property with the Right of Survivorship (CPWROS) is a special way for married couples (and registered domestic partners in some states) to own property together. Only community-property states



offer the survivorship option (California, Arizona, and Nevada are community property states. Oregon is NOT a community property state). For many households, it is an easy and low-cost way to ensure the surviving partner keeps the home. It combines two important ideas:

1. **Community Property** – both partners equally own the property, and both must agree to major decisions like selling or refinancing.
2. **Right of Survivorship** – when one partner dies, the other automatically becomes the sole owner, with not court process required.

In other words, CPWROS makes the transfer of the home automatic and immediate at the first partner's death.

## Tenancy by the Entirety

Tenancy by the Entirety (TBE) is a married-couple-only way of owning real estate in certain states (including Oregon, but NOT including California,

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Nevada, and Arizona). TBE treats both spouses as one legal owner, instead of two individuals. That means:

- Both spouses own 100% of the property together – not 50/50.
- If one spouse dies, the surviving spouse automatically becomes the sole owner without going through probate.

It is often chosen by couples who want automatic inheritance, simplicity, and strong financial protection.

The vesting options described here are meant to give a simple overview, but do not cover all the details of each option.

Choosing the right vesting option when you purchase real estate is essential because it determines how the property is owned, how it can be transferred, and what happens to it when an owner dies. Be sure to speak with your real estate agent or a title professional for full guidance tailored to your situation.

*This information does not and is not intended to constitute legal advice; instead, all information is for general information purposes only.*



## MONTHLY INDUSTRY TERMS

### **Assumption of Mortgage**

An obligation undertaken by a new purchaser of land to be liable for payment of an existing note secured by a mortgage.

### **Joint Tenancy**

An equal undivided ownership of property by two or more persons. Upon death of any owner, the survivors take the decedent's interest in the property.

### **Tenancy in Common**

An undivided ownership in real estate by two or more persons, without right of survivorship – interests need not be equal.

