

Community Property

Parties

Only husband and wife.

Division

Ownership and managerial interests are equal, except control of business is solely with managing spouse.

Title

Title is in the "community".

Possession

Both co-owners have equal management and control with similar absolute power of disposition.

Conveyance

A spouse may not make a gift of or dispose of community personal property without valuable consideration and written consent of the other spouse; "Necessaries" (furniture, furnishings, or fittings of the home, or the clothing or wearing apparel of the other spouse or minor children) may not be disposed of without the written consent of the other spouse.

Purchaser's status

Purchaser can only acquire whole title of community, cannot acquire a part of it.

Death

On co-owner's death, 1/2 belongs to survivor as separate property. 1/2 goes by will to decedent's devisees or by succession to survivor.

Successor's Status

If passing by will, tenancy in common between devisees and survivor results.

Creditor's Rights

Community property is general liable for a debt incurred by either spouse before or during marriage, regardless of which spouse has management and control of the property or which spouse is party to the debt. Earnings of married person during marriage are not liable for pre-marital debt of other spouse if earnings from which debt is paid remains uncommingled with other community property and held in account where other spouse does not have access; community not liable for debts incurred subsequent to separation. Earnings of a spouse are not liable for the debts of the other spouse contracted before the marriage.

Presumption

Generally, all real property in this state and all personal property wherever situated acquired during marriage by a married person while domiciled in this state is community property. Presumption does not apply to property acquired before marriage by gift, bequest, devise or descent.

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