

# Community Property With Right of Survivorship

## **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 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**

Upon the death of one spouse, title to the property passes to the surviving spouse by operation of law, to the exclusion of the heirs and creditors of the deceased spouse. The survivor holds title to the property as his sole and separate property. Community property with right of survivorship cannot be disposed of by testamentary disposition, and it does not pass to the heirs of the decedent by interstate succession.

## **Successor's Status**

Upon death of one spouse, survivor continues in ownership of entire property including share of the deceased spouse. Surviving spouse continues to own entire title, including former title interest of deceased spouse.

## **Creditor's Status**

Community property is generally 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 property 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**

Deed must expressly vest title in the name of the spouses as "husband and wife as community property with right of survivorship" and deed may be signed by the grantees.

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