Study 11:

Real Property in Names of Husband and Wife

Compiled by

Beverly R. Budin
Philadelphia, Pennsylvania
REAL PROPERTY IN NAMES OF HUSBAND AND WIFE
Where John and Mary Doe are husband and wife at the time title passes to them, domiciled in the state indicated.

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**ALABAMA**

1. What type of tenancy is created thereby?
   - T/C
   - N/A
   - N/A
   - T/C
   - T/C²
   - §35-4-7, Code 19

2. What rights are acquired of each spouse in such title holding to:
   - Possession?
     - E
     - N/A
     - N/A
     - E
     - E
   - Income?
     - E¹
     - N/A
     - N/A
     - E¹
     - E¹
   - Lease the property?
     - E²
     - N/A
     - N/A
     - E²
     - E²
   - Partition the property?
     - E
     - §35-8-20 et seq.,
     - N/A
     - 35-8-40 et seq.,
     - N/A
     - 35-8-80 et seq.,
     - E²³
     - 35-6-100 et seq.,
     - E
     - Code 1975

3. What disposition is made of the property on one spouse’s death?
   - X
   - N/A
   - N/A
   - X²³
   - X⁰

4. What is the result of adding the words “60% to John and 40% to Mary”? 
   - NC
   - N/A
   - N/A
   - NC
   - NC

**ALASKA**

1. What type of tenancy is created thereby?
   - T/E²³
   - (34.15.110(b) Alaska Statutes)
   - T/E
   - T/E
   - T/C
   - (34.15.110(b) Alaska Statutes)
   - T/E
   - (34.15.130 Alaska Statutes)

2. What rights are acquired of each spouse in such title holding to:
   - Possession?
     - E
     - E
     - E
     - E
   - Income?
     - E¹
     - E¹
     - E¹
     - E¹
   - Lease the property?
     - E²
     - E³
     - E³
     - E³
   - Partition the property?
     - N
     - N
     - E (09.45.260 Alaska Statutes)

3. What disposition is made of the property on one spouse’s death?
   - Y
   - Y
   - Y
   - X
   - Y

4. What is the result of adding the words “60% to John and 40% to Mary”? 
   - T/C
   - T/C
   - NC
   - T/C

**ABBREVIATIONS:**

- T/C = Tenancy in common
- T/E = Tenancy by the entireties
- J/T = Joint tenancy with right of survivorship
- C/P = Community property
- S/P = Separate property
- X = Decedent’s interest in property passes in accordance with his or her will, or by intestacy, subject to surviving spouse’s dower, curtesy, elective share, or equivalent (if any) provided under law of state indicated.
- Y = Surviving spouse acquires title automatically on death of other
- N = Neither spouse may require during marriage
- E = Each spouse has equal rights, entitlement, or power with respect to matter indicated
- H = Husband only is entitled or empowered with respect to matter indicated
- NS = Not settled under law of jurisdiction indicated
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### ARIZONA

Gordon G. Waterfall  
Tucson, Arizona  
December 5, 1996

1. What type of tenancy is created thereby?  
   - C/P  
   - N/A  
   - C/P  
   - T/C  
   - J/T

2. What rights are acquired of each spouse in such title holding to:  
   - Possession?  
     - E  
     - N/A  
     - E  
     - E  
     - E
   - Income?  
     - E  
     - N/A  
     - E  
     - E  
     - E
   - Lease the property?  
     - E^4  
     - N/A  
     - E^4  
     - E  
     - E
   - Partition the property?  
     - N^3  
     - N/A  
     - N^3,25  
     - E  
     - E

3. What disposition is made of the property on one spouse's death?  
   - X  
   - N/A  
   - X  
   - X  
   - Y

4. What is the result of adding the words "60% to John and 40% to Mary"?  
   - T/C^12  
   - N/A  
   - N/S  
   - T/C^12  
   - T/C^22

### ARKANSAS

William D. Haught  
Little Rock, Arkansas  
November 11, 1996

1. What type of tenancy is created thereby?  
   - T/E  
   - T/E  
   - N/A  
   - T/C  
   - NS^9 (Probably T/C)

2. What rights are acquired of each spouse in such title holding to:  
   - Possession?  
     - E  
     - E  
     - E  
     - E  
     - E
   - Income?  
     - E^1  
     - E^1  
     - E^1  
     - E^1
   - Lease the property?  
     - E_{3,16}  
     - E_{3,16}  
     - E^7
   - Partition the property?  
     - N  
     - N  
     - E

3. What disposition is made of the property on one spouse's death?  
   - Y  
   - Y  
   - X

4. What is the result of adding the words "60% to John and 40% to Mary"?  
   - T/C  
   - N/S  
   - NC  
   - NC

**ABBREVIATIONS:**  
T/C = Tenancy in common  
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<td>C/P</td>
<td>N/A</td>
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<td>J/T</td>
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<tr>
<td>“John Doe and Mary Doe as tenants by the entireties”</td>
<td>C/P</td>
<td>N/A</td>
<td>C/P</td>
<td>T/C</td>
<td>J/T</td>
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<tr>
<td>“John Doe and Mary Doe as community property”</td>
<td>C/P</td>
<td>N/A</td>
<td>C/P</td>
<td>T/C</td>
<td>J/T</td>
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<tr>
<td>“John Doe and Mary Doe as tenants in common”</td>
<td>C/P</td>
<td>N/A</td>
<td>C/P</td>
<td>T/C</td>
<td>J/T</td>
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<td>“John Doe and Mary Doe as joint tenants”</td>
<td>C/P</td>
<td>N/A</td>
<td>C/P</td>
<td>T/C</td>
<td>J/T</td>
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### CALIFORNIA

**Realty conveyed A B C D E**

or willed to: “John Doe “John Doe and “John Doe and “John Doe and “John Doe and

Mary Doe” Mary Doe as Mary Doe as Mary Doe as Mary Doe as

tenants by tenants in joint tenants” the entireties” the entireties” tenancy in common” joint tenants”

**Where John and Mary Doe are husband and wife at the time title passes to them, domiciled in the state indicated.**

1. **What type of tenancy is created thereby?**
   - C/P
   - N/A
   - C/P
   - T/C
   - J/T

2. **What rights are acquired of each spouse in such title holding to:**
   - a. Possession? E N/A E E E
   - b. Income? E N/A E’ E’ E
   - c. Lease the property? E N/A E E’ E
   - d. Partition the property? ? N/A NC ? ?

3. **What disposition is made of the property on one spouse’s death?**
   - X N/A X X Y

4. **What is the result of adding the words “60% to John and 40% to Mary”?**
   - C/P N/A C/P / N/A

### COLORADO

**Realty conveyed A B C D E**

or willed to: “John Doe “John Doe and “John Doe and “John Doe and “John Doe and

Mary Doe” Mary Doe as Mary Doe as Mary Doe as Mary Doe as

tenants by tenants in joint tenants” the entireties” the entireties” tenancy in common” joint tenants”

**Where John and Mary Doe are husband and wife at the time title passes to them, domiciled in the state indicated.**

1. **What type of tenancy is created thereby?**
   - T/C
   - N/A
   - C/P
   - T/C
   - J/T

2. **What rights are acquired of each spouse in such title holding to:**
   - a. Possession? E N/A E E E
   - b. Income? E N/A E E E
   - c. Lease the property? E N/A E E E
   - d. Partition the property? E N/A E E E

3. **What disposition is made of the property on one spouse’s death?**
   - X N/A X X Y

4. **What is the result of adding the words “60% to John and 40% to Mary”?**
   - NC N/A N/A NC T/C

### ABBREVIATIONS:

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- Y = Surviving spouse acquires title automatically on death of other
- Y’ = Surviving spouse acquires title automatically on death of other
- Y” = Surviving spouse acquires title automatically on death of other
- Y’’ = Surviving spouse acquires title automatically on death of other
- N = Neither spouse may require during marriage
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April 1999
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CONNECTICUT

1. What type of tenancy is created thereby?
   - T/C (Conn. Gen. Stats. 47-36a, (b)(2))
   - J/T (Conn. Gen. Stats. 47-14a et seq.)
   - N/A
   - T/C

2. What rights are acquired of each spouse in such title holding to:
   - a. Possession? E E N/A E E
   - b. Income? E E N/A E E
   - c. Lease the property? E E E E

3. What disposition is made of the property on one spouse's death?
   - X Y N/A X Y

4. What is the result of adding the words "60% to John and 40% to Mary"?
   - T/C NS N/A T/C NS

DELAWARE

1. What type of tenancy is created thereby?
   - T/E
   - T/E
   - NS (Probably T/E)
   - T/C

2. What rights are acquired of each spouse in such title holding to:
   - b. Income? E E E E
   - c. Lease the property? E E E E
   - d. Partition the property? N N E E

3. What disposition is made of the property on one spouse's death?
   - Y Y X X

4. What is the result of adding the words "60% to John and 40% to Mary"?
   - T/C NS NC NC

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Martin Wolman
Hartford, Connecticut
October 15, 1996

Thomas P. Sweeney
Wilmington, Delaware
November 13, 1996

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**DISTRICT OF COLUMBIA**

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<td>a. Possession?</td>
<td>E</td>
<td>E</td>
<td>E</td>
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</tr>
<tr>
<td>b. Income?</td>
<td>E</td>
<td>E</td>
<td>E</td>
<td>E</td>
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<tr>
<td>c. Lease the property?</td>
<td>E</td>
<td>E</td>
<td>E</td>
<td>E</td>
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<td>X</td>
<td>Y</td>
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<td>NS</td>
<td>NS</td>
<td>T/C</td>
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### GEORGIA

William G. Witcher, Jr.
Decatur, Georgia
November 5, 1996

1. What type of tenancy is created thereby?

2. What rights are acquired of each spouse in such title holding to:
   - Possession?  
     - E 44-6-121a  
   - Income?  
     - E' 44-6-121b  
   - Lease the property?  
     - E7  
   - Partition the property?  
     - E 44-6-160

3. What disposition is made of the property on one spouse's death?

4. What is the result of adding the words "60% to John and 40% to Mary"?

### HAWAII

Randall M.L. Yee
Honolulu, Hawaii
February 3, 1997

1. What type of tenancy is created thereby?

2. What rights are acquired of each spouse in such title holding to:
   - Possession?  
     - E  
   - Income?  
     - E'  
   - Lease the property?  
     - E7  
   - Partition the property?  
     - E

3. What disposition is made of the property on one spouse’s death?

4. What is the result of adding the words "60% to John and 40% to Mary"?

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#### IDAHO

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<th>C/P or T/C</th>
<th>C/P or T/C</th>
<th>C/P</th>
<th>T/C or C/P</th>
<th>NS</th>
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<tr>
<td>2. What rights are acquired of each spouse in such title holding to:</td>
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<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>a. Possession?</td>
<td>E</td>
<td>E</td>
<td>E</td>
<td>E</td>
<td>NS</td>
</tr>
<tr>
<td>b. Income?</td>
<td>E</td>
<td>E</td>
<td>E</td>
<td>E</td>
<td>NS</td>
</tr>
<tr>
<td>c. Lease the property?</td>
<td>E</td>
<td>E</td>
<td>E</td>
<td>E</td>
<td>NS</td>
</tr>
<tr>
<td>d. Partition the property?</td>
<td>N or E</td>
<td>N or E</td>
<td>N</td>
<td>E</td>
<td>NS</td>
</tr>
</tbody>
</table>

| 3. What disposition is made of the property on one spouse's death? | X | X | X | X | NS |

| 4. What is the result of adding the words "60% to John and 40% to Mary"? | NS | T/C | N/A | T/C or NS | NS |

#### ILLINOIS

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<th>T/C</th>
<th>T/E</th>
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<th>T/C</th>
<th>J/T</th>
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<td></td>
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<td>E</td>
<td>E</td>
<td>N/A</td>
<td>E</td>
<td>E</td>
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<tr>
<td>c. Lease the property?</td>
<td>E</td>
<td>E</td>
<td>N/A</td>
<td>E</td>
<td>E</td>
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<tr>
<td>d. Partition the property?</td>
<td>E</td>
<td>E</td>
<td>N/A</td>
<td>E</td>
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| 3. What disposition is made of the property on one spouse's death? | X | Y | N/A | X | Y |

| 4. What is the result of adding the words "60% to John and 40% to Mary"? | T/C | N/A | N/A | T/C | N/A |

### ABBREVIATIONS:

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<th>N/A</th>
<th>Y</th>
<th>N</th>
<th>E</th>
<th>H</th>
<th>NS</th>
<th>NR</th>
<th>N/A</th>
<th>NC</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tenancy in common</td>
<td>Tenancy by the entireties</td>
<td>Joint tenancy with right of survivorship</td>
<td>Community property</td>
<td>Separate property</td>
<td>Neither spouse may require during marriage</td>
<td>Surviving spouse acquires title automatically on death of other</td>
<td>Husband only is entitled or empowered with respect to matter indicated</td>
<td>Each spouse has equal rights, entitlement, or power with respect to matter indicated</td>
<td>No change</td>
<td>Surviving spouse acquires title under intestacy</td>
<td>No response</td>
<td>Not applicable</td>
<td>No change</td>
</tr>
</tbody>
</table>

George W. Howard
Mr. Vernon, Illinois
September 25, 1996

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**REAL PROPERTY IN NAMES OF HUSBAND AND WIFE**

Where John and Mary Doe are husband and wife at the time title passes to them, domiciled in the state indicated.

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<td>“John Doe and Mary Doe as community property”</td>
<td>“John Doe and Mary Doe as tenants in common”</td>
<td>“John Doe and Mary Doe as joint tenants”</td>
</tr>
</tbody>
</table>

### INDIANA

Jeffrey B. Kolb  
Vincennes, Indiana  
November 14, 1996

1. What type of tenancy is created thereby?  
   T/E (IC 32-1-2-7 and IC 32-1-2-8)  
   T/E  
   T/E  
   T/C  
   J/T

2. What rights are acquired of each spouse in such title holding to:  
   a. Possession?  
      E  
      E  
      E  
      E  
      E
   b. Income?  
      E¹  
      E¹  
      E¹  
      E¹  
      E¹
   c. Lease the property?  
      E³  
      E³  
      E³  
      E³  
      E³
   d. Partition the property?  
      N (IC 32-4-5-1)  
      N  
      N  
      E  
      E

3. What disposition is made of the property on one spouse’s death?  
   Y  
   Y  
   Y  
   X  
   Y

4. What is the result of adding the words “60% to John and 40% to Mary”?  
   T/C  
   T/C  
   T/C  
   NC  
   T/C

### IOWA

Author  
City, State  
Date

1. What type of tenancy is created thereby?  

2. What rights are acquired of each spouse in such title holding to:  
   a. Possession?  
   b. Income?  
   c. Lease the property?  
   d. Partition the property?  

3. What disposition is made of the property on one spouse’s death?  

4. What is the result of adding the words “60% to John and 40% to Mary”?  

**ABBREVIATIONS:**

T/C = Tenancy in common  
T/E = Tenancy by the entireties  
J/T = Joint tenancy with right of survivorship  
C/P = Community property  
S/P = Separate property  
Y = Surviving spouse acquires title automatically on death of other  
N = Neither spouse may require during marriage  
E = Each spouse has equal rights, entitlement, or power with respect to matter indicated  
H = Husband only is entitled or empowered with respect to matter indicated  
NS = Not settled under law of jurisdiction indicated  
NR = No response  
N/A = Not applicable  
NC = No change
# REAL PROPERTY IN NAMES OF HUSBAND AND WIFE

Where John and Mary Doe are husband and wife at the time title passes to them, domiciled in the state indicated.

### KANSAS

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<th>E “John Doe and Mary Doe as joint tenants”</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. What type of tenancy is created thereby?</td>
<td>T/C</td>
<td>T/C</td>
<td>T/C</td>
<td>T/C</td>
<td>J/T</td>
</tr>
<tr>
<td>2. What rights are acquired of each spouse in such title holding to:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>a. Possession?</td>
<td>E</td>
<td>E</td>
<td>E</td>
<td>E</td>
<td>E</td>
</tr>
<tr>
<td>c. Lease the property?</td>
<td>E’</td>
<td>E’</td>
<td>E’</td>
<td>E’</td>
<td>E’</td>
</tr>
<tr>
<td>d. Partition the property?</td>
<td>E</td>
<td>E</td>
<td>E</td>
<td>E</td>
<td>E</td>
</tr>
<tr>
<td>3. What disposition is made of the property on one spouse’s death?</td>
<td>X (KSA 59-602(2))</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>Y</td>
</tr>
<tr>
<td>4. What is the result of adding the words “60% to John and 40% to Mary”?</td>
<td>NC</td>
<td>NC</td>
<td>NC</td>
<td>NC</td>
<td>NC</td>
</tr>
</tbody>
</table>

### KENTUCKY

<table>
<thead>
<tr>
<th>Realty conveyed or willed to:</th>
<th>A “John Doe Mary Doe”</th>
<th>B “John Doe and Mary Doe as tenants by the entireties”</th>
<th>C “John Doe and Mary Doe as community property”</th>
<th>D “John Doe and Mary Doe as tenants in common”</th>
<th>E “John Doe and Mary Doe as joint tenants”</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. What type of tenancy is created thereby?</td>
<td>T/C</td>
<td>NS (Probably T/C)</td>
<td>T/C</td>
<td>T/C</td>
<td>T/C39</td>
</tr>
<tr>
<td>2. What rights are acquired of each spouse in such title holding to:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>a. Possession?</td>
<td>E</td>
<td>E</td>
<td>E</td>
<td>E</td>
<td>E</td>
</tr>
<tr>
<td>b. Income?</td>
<td>E’ (Chapter 404 KRS)</td>
<td>E’</td>
<td>E’</td>
<td>E’</td>
<td>E’</td>
</tr>
<tr>
<td>c. Lease the property?</td>
<td>E’ (Chapter 404 KRS)</td>
<td>E’</td>
<td>E’</td>
<td>E’</td>
<td>E’</td>
</tr>
<tr>
<td>d. Partition the property?</td>
<td>E (KRS 381.120)</td>
<td>E</td>
<td>E</td>
<td>E</td>
<td>E</td>
</tr>
<tr>
<td>3. What disposition is made of the property on one spouse’s death?</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>4. What is the result of adding the words “60% to John and 40% to Mary”?</td>
<td>?’’</td>
<td>?’’</td>
<td>?’’</td>
<td>?’’</td>
<td>NC</td>
</tr>
</tbody>
</table>

### ABBREVIATIONS:

| T/C | Tenancy in common | Y | Surviving spouse acquires title automatically on death of other |
| T/E | Tenancy by the entireties | N | Neither spouse may require during marriage |
| J/T | Joint tenancy with right of survivorship | E | Each spouse has equal rights, entitlement, or power with respect to matter indicated |
| C/P | Community property | H | Husband only is entitled or empowered with respect to matter indicated |
| S/P | Separate property | NS | Not settled under law of jurisdiction indicated |
| X | Decedent’s interest in property passes in accordance with his or her will, or by intestacy, subject to surviving spouse’s dower, curtesy, elective share, or equivalent (if any) provided under law of state indicated. | NR | No response |
| N/A | Not applicable | NC | No change |

Randolph Noe
Louisville, Kentucky
October 10, 1996

Don W. Noah
Beloit, Kansas
October 21, 1996

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April 1999
## REAL PROPERTY IN NAMES OF HUSBAND AND WIFE

Where John and Mary Doe are husband and wife at the time title passes to them, domiciled in the state indicated.

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<tr>
<th>Realty conveyed or willed to:</th>
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<th>B</th>
<th>C</th>
<th>D</th>
<th>E</th>
</tr>
</thead>
<tbody>
<tr>
<td>“John Doe Mary Doe”</td>
<td>“John Doe and Mary Doe as tenants by the entireties”</td>
<td>“John Doe and Mary Doe as community property”</td>
<td>“John Doe and Mary Doe as tenants in common”</td>
<td>“John Doe and Mary Doe as joint tenants”</td>
<td></td>
</tr>
</tbody>
</table>

### LOUISIANA

<table>
<thead>
<tr>
<th>1. What type of tenancy is created thereby?</th>
<th>C/P (Louisiana Civil Code Art. 2334, 2338)</th>
<th>N/A</th>
<th>C/P</th>
<th>N/A</th>
<th>N/A</th>
</tr>
</thead>
<tbody>
<tr>
<td>2. What rights are acquired of each spouse in such title holding to:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>a. Possession?</td>
<td>E</td>
<td>E</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>b. Income?</td>
<td>E</td>
<td>E</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>c. Lease the property?</td>
<td>E³</td>
<td>E³</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>d. Partition the property?</td>
<td>N¹⁰</td>
<td>N¹⁰</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4. What is the result of adding the words “60% to John and 40% to Mary”?</td>
<td>Co-ownership (Code Art. 2336)</td>
<td></td>
<td></td>
<td>NS</td>
<td></td>
</tr>
</tbody>
</table>

### MAINE

<table>
<thead>
<tr>
<th>1. What type of tenancy is created thereby?</th>
<th>T/C</th>
<th>N/A</th>
<th>N/A</th>
<th>T/C</th>
<th>J/T</th>
</tr>
</thead>
<tbody>
<tr>
<td>2. What rights are acquired of each spouse in such title holding to:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>a. Possession?</td>
<td>E</td>
<td>E</td>
<td>E</td>
<td>E</td>
<td></td>
</tr>
<tr>
<td>b. Income?</td>
<td>E</td>
<td>E</td>
<td>E</td>
<td>E</td>
<td></td>
</tr>
<tr>
<td>c. Lease the property?</td>
<td>E³</td>
<td>E³</td>
<td>E³</td>
<td>E³</td>
<td></td>
</tr>
<tr>
<td>d. Partition the property?</td>
<td>NS</td>
<td>NS</td>
<td>NS</td>
<td>NS</td>
<td></td>
</tr>
<tr>
<td>3. What disposition is made of the property on one spouse’s death?</td>
<td>X</td>
<td>X</td>
<td>Y</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4. What is the result of adding the words “60% to John and 40% to Mary”?</td>
<td>T/C²⁷</td>
<td>T/C²⁷</td>
<td>N/A</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### ABBREVIATIONS:
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</tr>
</tbody>
</table>

## MARYLAND

**Evan A. Chriss**  
Baltimore, Maryland  
October 4, 1996

1. What type of tenancy is created thereby?  
   - T/E

2. What rights are acquired of each spouse in such title holding to:  
   - a. Possession?  
     - E
   - b. Income?  
     - E
   - c. Lease the property?  
     - E
   - d. Partition the property?  
     - N

3. What disposition is made of the property on one spouse’s death?  
   - Y

4. What is the result of adding the words “60% to John and 40% to Mary”?  
   - T/C

## MASSACHUSETTS

**Michael D. Brockelman**  
Worcester, Massachusetts  
October 23, 1996

1. What type of tenancy is created thereby?  
   - T/C

2. What rights are acquired of each spouse in such title holding to:  
   - a. Possession?  
     - E
   - b. Income?  
     - E
   - c. Lease the property?  
     - E
   - d. Partition the property?  
     - E

3. What disposition is made of the property on one spouse’s death?  
   - X

4. What is the result of adding the words “60% to John and 40% to Mary”?  
   - NC

### ABBREVIATIONS:

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**MICHIGAN**

James A. Kendall
Midland, Michigan
October 16, 1996

1. What type of tenancy is created thereby?
   - T/E (if marital status is indicated by separate proof of record)

2. What rights are acquired of each spouse in such title holding to:
   - a. Possession?
   - b. Income?
   - c. Lease the property?
   - d. Partition the property?
   - Y Y X

3. What disposition is made of the property on one spouse’s death?
   - Y

4. What is the result of adding the words “60% to John and 40% to Mary”?
   - Creates T/C in the stated proportions

**MINNESOTA**

Steve A. Brand
Minneapolis, Minnesota
November 29, 1996

1. What type of tenancy is created thereby?
   - T/C

2. What rights are acquired of each spouse in such title holding to:
   - a. Possession?
   - b. Income?
   - c. Lease the property?
   - d. Partition the property?
   - X Y

3. What disposition is made of the property on one spouse’s death?
   - Creates T/C in the stated proportions

**ABBREVIATIONS:**
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<th>D “John Doe and Mary Doe as tenants in common”</th>
<th>E “John Doe and Mary Doe as joint tenants”</th>
</tr>
</thead>
</table>

### MISSISSIPPI

1. **What type of tenancy is created thereby?**
   - T/C
   - T/C\(^{26}\)
   - T/C
   - T/C
   - T/C

2. **What rights are acquired of each spouse in such title holding to:**
   - a. Possession?
     - E
     - E
     - E
     - E
     - E
   - b. Income?
     - E
     - E
     - E
     - E
     - E
   - c. Lease the property?
     - E\(^{2}, T\)
     - E\(^{2}, T\)
     - E\(^{2}, T\)
     - E\(^{2}, T\)
     - E\(^{2}, T\)
   - d. Partition the property?
     - E\((11-21-1 et seq. Miss. Code of 1972)\)

3. **What disposition is made of the property on one spouse’s death?**
   - X
   - X
   - X
   - X
   - X

4. **What is the result of adding the words “60% to John and 40% to Mary”?**
   - ?\(^{27}\)
   - ?\(^{27}\)
   - ?\(^{27}\)
   - ?\(^{27}\)
   - ?\(^{27}\)

### MISSOURI

1. **What type of tenancy is created thereby?**
   - T/E
   - T/E
   - NS
   - T/C
   - J/T
   - (442.450)

2. **What rights are acquired of each spouse in such title holding to:**
   - a. Possession?
     - E
     - E
     - E
     - E
     - E
   - b. Income?
     - E
     - E
     - E
     - E
     - E
   - c. Lease the property?
     - E
     - E
     - E
     - E
     - E
   - d. Partition the property?
     - N
     - N
     - E
     - E

3. **What disposition is made of the property on one spouse’s death?**
   - Y
   - Y
   - X
   - Y

4. **What is the result of adding the words “60% to John and 40% to Mary”?**
   - ?\(^{27}\)
   - NS
   - ?\(^{27}\)
   - ?\(^{27}\)

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- NC = No change

W. McDonald Nichols
Jackson, Mississippi
September 24, 1996

Stephen N. Limbaugh
Cape Girardeau, Missouri
December 3, 1996

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April 1999
# REAL PROPERTY IN NAMES OF HUSBAND AND WIFE

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</thead>
<tbody>
<tr>
<td>1. What type of tenancy is created thereby?</td>
<td>T/C NS NS T/C J/T</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2. What rights are acquired of each spouse in such title holding to:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>a. Possession?</td>
<td>E E E</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>c. Lease the property?</td>
<td>E E</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>d. Partition the property?</td>
<td>E (70-29-101) E E</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3. What disposition is made of the property on one spouse’s death?</td>
<td>X X Y</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4. What is the result of adding the words “60% to John and 40% to Mary”?</td>
<td>NC NC NC</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

## MONTANA

David L. Johnson
Billings, Montana
October 21, 1996

| 1. What type of tenancy is created thereby? | T/C |
| 2. What rights are acquired of each spouse in such title holding to: | |
| a. Possession? | E |
| b. Income? | E (70-1-311, MCA) |
| c. Lease the property? | E |
| d. Partition the property? | E |
| 3. What disposition is made of the property on one spouse’s death? | X |
| 4. What is the result of adding the words “60% to John and 40% to Mary”? | NC |

## NEBRASKA

Wallace Becker
Lincoln, Nebraska
October 1, 1996

| 1. What type of tenancy is created thereby? | T/C |
| 2. What rights are acquired of each spouse in such title holding to: | |
| a. Possession? | E |
| b. Income? | E |
| c. Lease the property? | E |
| d. Partition the property? | E |
| 3. What disposition is made of the property on one spouse’s death? | X |
| 4. What is the result of adding the words “60% to John and 40% to Mary”? | T/C |

### ABBREVIATIONS:

- T/C = Tenancy in common
- T/E = Tenancy by the entireties
- J/T = Joint tenancy with right of survivorship
- C/P = Community property
- S/P = Separate property
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- Y = Surviving spouse acquires title automatically on death of other
- Y = Neither spouse may require during marriage
- E = Each spouse has equal rights, entitlement, or power with respect to matter indicated
- H = Husband only is entitled or empowered with respect to matter indicated
- N = Not settled under law of jurisdiction indicated
- NR = No response
- N/A = Not applicable
- NC = No change
REAL PROPERTY IN NAMES OF HUSBAND AND WIFE
Where John and Mary Doe are husband and wife at the time title passes to them, domiciled in the state indicated.

<table>
<thead>
<tr>
<th>Realty conveyed or willed to:</th>
<th>A “John Doe Mary Doe”</th>
<th>B “John Doe and Mary Doe as tenants by the entireties”</th>
<th>C “John Doe and Mary Doe as community property”</th>
<th>D “John Doe and Mary Doe as tenants in common”</th>
<th>E “John Doe and Mary Doe as joint tenants”</th>
</tr>
</thead>
</table>

**NEW HAMPSHIRE**

1. What type of tenancy is created thereby?
   - T/C (NRS 111.060, NRS 123.130)
   - C/P (NRS 111.964)
   - T/C
   - J/T (NRS 111.065); presumptively C/P, held as J/T

2. What rights are acquired of each spouse in such title holding to:
   a. Possession?
   - E
   - E
   - E
   - E
   b. Income?
   - E
   - E
   - E
   - E
   c. Lease the property?
   - E (NRS 123.230)
   - E (NRS 123.230)
   - E (NRS 123.230)
   - E (NRS 123.230)
   d. Partition the property?
   - E (NRS 39.010)
   - E (NRS 39.010)
   - E (NRS 39.010)
   - E (NRS 39.010)

3. What disposition is made of the property on one spouse’s death?
   - X
   - X
   - X
   - Y

4. What is the result of adding the words “60% to John and 40% to Mary”?
   - T/C
   - T/C
   - T/C
   - J/T

**NEVADA**

Robert E. Armstrong
Reno, Nevada
March 1, 1997

1. What type of tenancy is created thereby?
   - T/C (NRS 111.060, NRS 123.130)
   - C/P (NRS 111.964)
   - T/C
   - J/T (NRS 111.065); presumptively C/P, held as J/T

2. What rights are acquired of each spouse in such title holding to:
   a. Possession?
   - E
   - E
   - E
   - E
   b. Income?
   - E
   - E
   - E
   - E
   c. Lease the property?
   - E (NRS 123.230)
   - E (NRS 123.230)
   - E (NRS 123.230)
   - E (NRS 123.230)
   d. Partition the property?
   - E (NRS 39.010)
   - E (NRS 39.010)
   - E (NRS 39.010)
   - E (NRS 39.010)

3. What disposition is made of the property on one spouse’s death?
   - X
   - X
   - X
   - Y

4. What is the result of adding the words “60% to John and 40% to Mary”?
   - T/C (RSA 547C:1)
   - T/C (RSA 547C:1)
   - T/C (RSA 547C:1)
   - T/C (RSA 547C:1)

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Robert E. Armstrong
Reno, Nevada
March 1, 1997

Joseph S. Ransmeier
Concord, New Hampshire
November 4, 1996

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April 1999
# REAL PROPERTY IN NAMES OF HUSBAND AND WIFE

Where John and Mary Doe are husband and wife at the time title passes to them, domiciled in the state indicated.

<table>
<thead>
<tr>
<th>Realty conveyed or willed to:</th>
<th><strong>A</strong></th>
<th><strong>B</strong></th>
<th><strong>C</strong></th>
<th><strong>D</strong></th>
<th><strong>E</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>“John Doe”</td>
<td>“John Doe and Mary Doe as tenants by the entireties”</td>
<td>“John Doe and Mary Doe as community property”</td>
<td>“John Doe and Mary Doe as tenants in common”</td>
<td>“John Doe and Mary Doe as joint tenants”</td>
</tr>
</tbody>
</table>

## NEW JERSEY

<table>
<thead>
<tr>
<th>1. What type of tenancy is created thereby?</th>
<th>T/E</th>
<th>T/E</th>
<th>N/A</th>
<th>T/C</th>
<th>J/T</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>2. What rights are acquired of each spouse in such title holding to:</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>a. Possession?</strong></td>
</tr>
<tr>
<td><strong>b. Income?</strong></td>
</tr>
<tr>
<td><strong>c. Lease the property?</strong></td>
</tr>
<tr>
<td><strong>d. Partition the property?</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>3. What disposition is made of the property on one spouse’s death?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Y</td>
</tr>
</tbody>
</table>

| 4. What is the result of adding the words “60% to John and 40% to Mary”? | T/C | T/C | NC | T/C |

## NEW MEXICO

<table>
<thead>
<tr>
<th>1. What type of tenancy is created thereby?</th>
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<th><strong>a. Possession?</strong></th>
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<tr>
<td><strong>b. Income?</strong></td>
</tr>
<tr>
<td><strong>c. Lease the property?</strong></td>
</tr>
<tr>
<td><strong>d. Partition the property?</strong></td>
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</table>

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<th>3. What disposition is made of the property on one spouse’s death?</th>
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<tr>
<th>4. What is the result of adding the words “60% to John and 40% to Mary”?</th>
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Howard G. Wachenfeld
Newark, New Jersey
November 5, 1996
### REAL PROPERTY IN NAMES OF HUSBAND AND WIFE

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<td>“John Doe</td>
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<td>“John Doe and Mary Doe as community property”</td>
<td>“John Doe and Mary Doe as tenants in common”</td>
<td>“John Doe and Mary Doe as joint tenants”</td>
</tr>
</tbody>
</table>

#### NEW YORK

Donald J. Farinacci  
Melville, New York  
April 3, 1997

1. **What type of tenancy is created thereby?**
   - T/E (New EPTL 6-2.1 Eff. 1/1/96)
   - T/E (New EPTL 6-2.1 Eff. 1/1/96)
   - N/A
   - T/C
   - J/T

2. **What rights are acquired of each spouse in such title holding to:**
   - a. Possession?  
     - E  
     - E  
     - E  
     - E  
     - E
   - b. Income?  
     - 1 (New Dom Rel. Law 50)  
     - E  
     - E  
     - E  
     - E
   - c. Lease the property?  
     - E  
     - E  
     - E  
     - E  
     - E
   - d. Partition the property?  
     - N  
     - N  
     - E  
     - E  
     - E

3. **What disposition is made of the property on one spouse’s death?**  
   - Y  
   - Y  
   - X  
   - Y  

4. **What is the result of adding the words “60% to John and 40% to Mary”?**  
   - T/C  
   - T/C  
   - NC  
   - T/C

#### NORTH CAROLINA

James T. Hedrick  
Durham, North Carolina  
December 12, 1979

1. **What type of tenancy is created thereby?**  
   - T/E  
   - T/E  
   - N/S  
   - T/C  
   - J/T

2. **What rights are acquired of each spouse in such title holding to:**
   - a. Possession?  
     - E  
     - E  
     - E  
     - E  
     - E
   - b. Income?  
     - E  
     - E  
     - E  
     - E  
     - E
   - c. Lease the property?  
     - E  
     - E  
     - E  
     - E  
     - E
   - d. Partition the property?  
     - N  
     - N  
     - E  
     - E  
     - E

3. **What disposition is made of the property on one spouse’s death?**  
   - Y  
   - Y  
   - X  
   - X

4. **What is the result of adding the words “60% to John and 40% to Mary”?**  
   - T/C  
   - T/C  
   - NC  
   - T/C

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April 1999
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<td>&quot;John Doe and Mary Doe as tenants by the entireties&quot;</td>
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<td>&quot;John Doe and Mary Doe as community property&quot;</td>
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<td></td>
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<td>&quot;John Doe and Mary Doe as joint tenants&quot;</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

## NORTH DAKOTA

Wesley A. Argue  
Hamilton, North Dakota  
October 10, 1996

1. **What type of tenancy is created thereby?**
   - T/C (47-02-08 NDCC)  
   - N/A  
   - N/A  
   - T/C  
   - J/T

2. **What rights are acquired of each spouse in such title holding to:**
   - a. Possession?  
     - E  
     - E  
     - E  
   - b. Income?  
     - E'  
     - E'  
     - E'  
   - c. Lease the property?  
     - E'  
     - E'  
     - E'  
   - d. Partition the property?  
     - E  
     - E  
     - E  

3. **What disposition is made of the property on one spouse’s death?**
   - X  
   - X  
   - Y

4. **What is the result of adding the words “60% to John and 40% to Mary”?**
   - NC  
   - NC  
   - NS

## OHIO

John W. Eilers, Fr.  
Cincinnati, Ohio  
September 24, 1996

1. **What type of tenancy is created thereby?**
   - T/C  
   - J/T (O.R.C. 5302.17)  
   - T/C  
   - T/C  
   - T/C'

2. **What rights are acquired of each spouse in such title holding to:**
   - a. Possession?  
     - E  
     - E  
     - E  
     - E  
   - b. Income?  
     - E'  
     - E'  
     - E'  
     - E'  
   - c. Lease the property?  
     - E'  
     - E'  
     - E'  
     - E'  
   - d. Partition the property?  
     - E  
     - E  
     - E  
     - E  

3. **What disposition is made of the property on one spouse’s death?**
   - X  
   - X  
   - X  
   - X

4. **What is the result of adding the words “60% to John and 40% to Mary”?**
   - NC  
   - NC  
   - NC  
   - NC  

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April 1999  
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11-19
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<th>D</th>
<th>E</th>
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<tbody>
<tr>
<td>“John Doe Mary Doe”</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>“John Doe and Mary Doe as tenants by the entireties”</td>
<td></td>
<td></td>
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<td></td>
<td></td>
</tr>
</tbody>
</table>

#### OKLAHOMA

James F. Gibbens
Oklahoma City, Oklahoma
November 6, 1996

1. What type of tenancy is created thereby?
   - T/C
   - NS
   - N/A
   - T/C
   - J/T

2. What rights are acquired of each spouse in such title holding to:
   - a. Possession? E
   - b. Income? E1
   - c. Lease the property? E7
   - d. Partition the property? E13

3. What disposition is made of the property on one spouse’s death?
   - x

4. What is the result of adding the words “60% to John and 40% to Mary”?
   - NC

#### OREGON

Campbell Richardson
Portland, Oregon
November 10, 1996

1. What type of tenancy is created thereby?
   - T/E
   - T/E
   - N/A
   - T/C
   - T/E

2. What rights are acquired of each spouse in such title holding to:
   - a. Possession? E
   - b. Income? E
   - c. Lease the property? E
   - d. Partition the property? N

3. What disposition is made of the property on one spouse’s death?
   - Y

4. What is the result of adding the words “60% to John and 40% to Mary”?
   - NR

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<th>B</th>
<th>C</th>
<th>D</th>
<th>E</th>
</tr>
</thead>
<tbody>
<tr>
<td>“John Doe”</td>
<td>T/E</td>
<td>T/E</td>
<td>N/A</td>
<td>T/C</td>
<td>T/E</td>
</tr>
<tr>
<td>“Mary Doe”</td>
<td>E</td>
<td>E</td>
<td>E</td>
<td>E</td>
<td>E</td>
</tr>
<tr>
<td>“John Doe and Mary Doe as tenants by the entireties”</td>
<td>E’</td>
<td>E’</td>
<td>N/A</td>
<td>E’</td>
<td>E’</td>
</tr>
<tr>
<td>“John Doe and Mary Doe as tenants in common”</td>
<td>E’</td>
<td>E’</td>
<td>E’</td>
<td>E’</td>
<td>E’</td>
</tr>
<tr>
<td>“John Doe and Mary Doe as joint tenants”</td>
<td>E’</td>
<td>E’</td>
<td>E’</td>
<td>E’</td>
<td>E’</td>
</tr>
</tbody>
</table>

## Pennsylvania

Mark Bookman  
Pittsburgh, Pennsylvania  
March 10, 1997

1. What type of tenancy is created thereby?  
   - T/E  
   - T/E  
   - N/A  
   - T/C  
   - T/E

2. What rights are acquired of each spouse in such title holding to:  
   a. Possession?  
      - E  
      - E  
      - E  
      - E  
      - E
   b. Income?  
      - E  
      - E  
      - E’  
      - E  
      - E
   c. Lease the property?  
      - E  
      - E  
      - E’  
      - E  
      - E
   d. Partition the property?  
      - N  
      - N  
      - E  
      - N  
      - N

3. What disposition is made of the property on one spouse’s death?  
   - Y  
   - Y  
   - X  
   - Y

4. What is the result of adding the words “60% to John and 40% to Mary”?  
   - T/C  
   - T/C  
   - T/C  
   - T/C

## Rhode Island

Richard B. Sheffield  
Newport, Rhode Island  
October 15, 1996

1. What type of tenancy is created thereby?  
   - T/C  
   - (B4-3-1, GL 1956)  
   - T/E  
   - N/A  
   - T/C  
   - J/T

2. What rights are acquired of each spouse in such title holding to:  
   a. Possession?  
      - E  
      - E  
      - N/A  
      - E  
      - E
   b. Income?  
      - E’ (10-2-1)  
      - E’  
      - N/A  
      - E’  
      - E’
   c. Lease the property?  
      - E’ (34-1501, GL 1956)  
      - E  
      - N/A  
      - E  
      - E
   d. Partition the property?  
      - E (34-1401, GL 1956)  
      - N  
      - N/A  
      - X  
      - Y

3. What disposition is made of the property on one spouse’s death?  
   - Change in proportionate property interest only  
   - N/A  
   - Change in proportionate property interest only  
   - N/A

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11-21
**REAL PROPERTY IN NAMES OF HUSBAND AND WIFE**

Where John and Mary Doe are husband and wife at the time title passes to them, domiciled in the state indicated.

<table>
<thead>
<tr>
<th>Realty conveyed or willed to:</th>
<th><strong>A</strong> “John Doe Mary Doe”</th>
<th><strong>B</strong> “John Doe and Mary Doe as tenants by the entireties”</th>
<th><strong>C</strong> “John Doe and Mary Doe as community property”</th>
<th><strong>D</strong> “John Doe and Mary Doe as tenants in common”</th>
<th><strong>E</strong> “John Doe and Mary Doe as joint tenants”</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. What type of tenancy is created thereby?</td>
<td>T/C</td>
<td>N/A</td>
<td>N/A</td>
<td>T/C</td>
<td>J/T</td>
</tr>
<tr>
<td>2. What rights are acquired of each spouse in such title holding to:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>a. Possession?</td>
<td>E</td>
<td>E</td>
<td>E</td>
<td>E</td>
<td></td>
</tr>
<tr>
<td>b. Income?</td>
<td>E</td>
<td>E</td>
<td>E</td>
<td>E</td>
<td></td>
</tr>
<tr>
<td>c. Lease the property?</td>
<td>E</td>
<td>E</td>
<td>E</td>
<td>E</td>
<td></td>
</tr>
<tr>
<td>3. What disposition is made of the property on one spouse’s death?</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4. What is the result of adding the words “60% to John and 40% to Mary”?</td>
<td>NC</td>
<td>NC</td>
<td>NC</td>
<td>NS</td>
<td></td>
</tr>
</tbody>
</table>

**SOUTH CAROLINA**

Karen Bartley Rollison
City, South Carolina
Date

**SOUTH DAKOTA**

Thomas H. Foye
Rapid City, South Dakota
September 23, 1996

<table>
<thead>
<tr>
<th>Realty conveyed or willed to:</th>
<th><strong>A</strong> “John Doe Mary Doe”</th>
<th><strong>B</strong> “John Doe and Mary Doe as tenants by the entireties”</th>
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</tr>
</thead>
<tbody>
<tr>
<td>1. What type of tenancy is created thereby?</td>
<td>T/C</td>
<td>N/A</td>
<td>N/A</td>
<td>T/C</td>
<td>J/T</td>
</tr>
<tr>
<td>2. What rights are acquired of each spouse in such title holding to:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>a. Possession?</td>
<td>E</td>
<td>E</td>
<td>E</td>
<td>E</td>
<td></td>
</tr>
<tr>
<td>b. Income?</td>
<td>E</td>
<td>E</td>
<td>E</td>
<td>E</td>
<td></td>
</tr>
<tr>
<td>c. Lease the property?</td>
<td>E</td>
<td>E</td>
<td>E</td>
<td>E</td>
<td></td>
</tr>
<tr>
<td>d. Partition the property?</td>
<td>E</td>
<td>E</td>
<td>E</td>
<td>E</td>
<td></td>
</tr>
<tr>
<td>3. What disposition is made of the property on one spouse’s death?</td>
<td>X</td>
<td>N/A</td>
<td>N/A</td>
<td>X</td>
<td>Y</td>
</tr>
<tr>
<td>4. What is the result of adding the words “60% to John and 40% to Mary”?</td>
<td>T/C</td>
<td>N/A</td>
<td>N/A</td>
<td>T/C</td>
<td></td>
</tr>
</tbody>
</table>

**ABBREVIATIONS:**

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April 1999
REAL PROPERTY IN NAMES OF HUSBAND AND WIFE
Where John and Mary Doe are husband and wife at the time
title passes to them, domiciled in the state indicated.

<table>
<thead>
<tr>
<th>Realty conveyed or willed to:</th>
<th>A</th>
<th>B</th>
<th>C</th>
<th>D</th>
<th>E</th>
</tr>
</thead>
<tbody>
<tr>
<td>“John Doe and Mary Doe”</td>
<td>T/E</td>
<td>T/E</td>
<td>NS</td>
<td>T/C</td>
<td>T/E</td>
</tr>
<tr>
<td>“John Doe and Mary Doe as tenants by the entireties”</td>
<td>T/E</td>
<td>T/E</td>
<td>NS</td>
<td>T/C</td>
<td>T/E</td>
</tr>
<tr>
<td>“John Doe and Mary Doe as community property”</td>
<td>T/E</td>
<td>T/E</td>
<td>NS</td>
<td>T/C</td>
<td>T/E</td>
</tr>
<tr>
<td>“John Doe and Mary Doe as tenants in common”</td>
<td>T/E</td>
<td>T/E</td>
<td>NS</td>
<td>T/C</td>
<td>T/E</td>
</tr>
<tr>
<td>“John Doe and Mary Doe as joint tenants”</td>
<td>T/E</td>
<td>T/E</td>
<td>NS</td>
<td>T/C</td>
<td>T/E</td>
</tr>
</tbody>
</table>

**TENNESSEE**

William N. Dearborn
Nashville, Tennessee
November 7, 1996

1. What type of tenancy is created thereby?
   - T/E

2. What rights are acquired of each spouse in such title holding to:
   - b. Income?  E  E  E  E  E
   - c. Lease the property?  E  E  E  E  E
   - d. Partition the property?  N  N  N  E  N

3. What disposition is made of the property on one spouse’s death?
   - Y  Y  Y  X  Y

4. What is the result of adding the words “60% to John and 40% to Mary”?
   - T/C  NS  T/C  NC  T/C

**TEXAS**

Lucian Morehead
Plainview, Texas
October 28, 1996

1. What type of tenancy is created thereby?
   - C/P  C/P  C/P  C/P  C/P

2. What rights are acquired of each spouse in such title holding to:
   - b. Income?  E  E  E  E  E
   - c. Lease the property?  E  E  E  E  E
   - d. Partition the property?  N  N  N  N  N

3. What disposition is made of the property on one spouse’s death?
   - X  X  X  X  X

4. What is the result of adding the words “60% to John and 40% to Mary”?
   - NC  NC  NC  NC  NC

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Where John and Mary Doe are husband and wife at the time title passes to them, domiciled in the state indicated.

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<thead>
<tr>
<th>Realty conveyed or willed to:</th>
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<th>D</th>
<th>E</th>
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<tr>
<td>“John Doe and Mary Doe”</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>“John Doe and Mary Doe as tenants by the entireties”</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>“John Doe and Mary Doe as community property”</td>
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<td></td>
<td></td>
<td></td>
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<td></td>
<td></td>
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<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**UTAH**

1. What type of tenancy is created thereby?  
2. What rights are acquired of each spouse in such title holding to:  
   a. Possession?  
   b. Income?  
   c. Lease the property?  
   d. Partition the property?  
3. What disposition is made of the property on one spouse’s death?  
4. What is the result of adding the words “60% to John and 40% to Mary”?  

**VERMONT**

1. What type of tenancy is created thereby?  
2. What rights are acquired of each spouse in such title holding to:  
   a. Possession?  
   b. Income?  
   c. Lease the property?  
   d. Partition the property?  
3. What disposition is made of the property on one spouse’s death?  
4. What is the result of adding the words “60% to John and 40% to Mary”?  

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R. Clark Smith  
Rutland, Vermont  
October 4, 1996  

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April 1999
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<th>C</th>
<th>D</th>
<th>E</th>
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<tbody>
<tr>
<td>&quot;John Doe and Mary Doe&quot;</td>
<td>&quot;John Doe and Mary Doe as tenants by the entireties&quot;</td>
<td>&quot;John Doe and Mary Doe as community property&quot;</td>
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<td>&quot;John Doe and Mary Doe as tenants in common&quot;</td>
</tr>
</tbody>
</table>

**VIRGINIA**

Thomas S. Word, Jr.
Richmond, Virginia
September 23, 1996

1. What type of tenancy is created thereby?
   - T/C (55-20)

2. What rights are acquired of each spouse in such title holding to:
   - a. Possession?
     - E
   - b. Income?
     - E'
   - c. Lease the property?
     - E'
   - d. Partition the property?
     - E

3. What disposition is made of the property on one spouse's death?
   - X

4. What is the result of adding the words "60% to John and 40% to Mary"?
   - NC

**WASHINGTON**

Gary C. Randall
Spokane, Washington
October 18, 1996

1. What type of tenancy is created thereby?
   - C/P

2. What rights are acquired of each spouse in such title holding to:
   - a. Possession?
     - E
   - b. Income?
     - E
   - c. Lease the property?
     - E'
   - d. Partition the property?
     - E

3. What disposition is made of the property on one spouse's death?
   - X

4. What is the result of adding the words "60% to John and 40% to Mary"?
   - NS

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</tr>
</thead>
</table>

## WEST VIRGINIA

**Noel P. Copen**
Huntington, West Virginia
November 4, 1996

1. **What type of tenancy is created thereby?**
   - T/C (36-1-19,20 48-3-1)

2. **What rights are acquired of each spouse in such title holding to:**
   - a. Possession?
     - E
   - b. Income?
     - E (55-8-13)
   - c. Lease the property?
     - E
   - d. Partition the property?
     - E

3. **What disposition is made of the property on one spouse’s death?**
   - X (36-1-19,20)

4. **What is the result of adding the words “60% to John and 40% to Mary”?**
   - NC

## WISCONSIN #1

**John B. Haydon**
Milwaukee, Wisconsin
October 30 1996

1. **What type of tenancy is created thereby?**
   - J/T

2. **What rights are acquired of each spouse in such title holding to:**
   - a. Possession?
     - E
   - b. Income?
     - E
   - c. Lease the property?
     - E
   - d. Partition the property?
     - E

3. **What disposition is made of the property on one spouse’s death?**
   - Y

4. **What is the result of adding the words “60% to John and 40% to Mary”?**
   - T/C

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<tr>
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<th>B</th>
<th>C</th>
<th>D</th>
<th>E</th>
</tr>
</thead>
<tbody>
<tr>
<td>“John Doe”</td>
<td></td>
<td>“John Doe and Mary Doe as tenants by the entireties”</td>
<td>“John Doe and Mary Doe as community property”</td>
<td>“John Doe and Mary Doe as tenants in common”</td>
<td>“John Doe and Mary Doe as joint tenants”</td>
</tr>
</tbody>
</table>

### WISCONSIN #2

Homestead Acquisitions After December 31, 1985

Note: Marital property in Wisconsin is a form of community property.

<table>
<thead>
<tr>
<th>1. What type of tenancy is created thereby?</th>
<th>Survivorship</th>
<th>Survivorship</th>
<th>Survivorship</th>
<th>Survivorship</th>
<th>Survivorship</th>
</tr>
</thead>
<tbody>
<tr>
<td>Marital Property</td>
<td>Marital Property</td>
<td>Marital Property</td>
<td>Marital Property</td>
<td>Marital Property</td>
<td>Marital Property</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>2. What rights are acquired of each spouse in such title holding to:</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Possession?</td>
</tr>
<tr>
<td>b. Income?</td>
</tr>
<tr>
<td>c. Lease the property?</td>
</tr>
<tr>
<td>d. Partition the property?</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>3. What disposition is made of the property on one spouse’s death?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Y</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>4. What is the result of adding the words “60% to John and 40% to Mary”?</th>
</tr>
</thead>
<tbody>
<tr>
<td>N/A⁵⁷</td>
</tr>
</tbody>
</table>

### WISCONSIN #3

Non-Homestead Acquisitions After December 31, 1985

Note: Marital property in Wisconsin is a form of community property.

<table>
<thead>
<tr>
<th>1. What type of tenancy is created thereby?</th>
<th>Marital Property</th>
<th>Marital Property</th>
<th>Marital Property</th>
<th>Marital Property</th>
<th>Marital Property</th>
</tr>
</thead>
<tbody>
<tr>
<td>Marital Property</td>
<td>Marital Property</td>
<td>Marital Property</td>
<td>Marital Property</td>
<td>Marital Property</td>
<td>Marital Property</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>2. What rights are acquired of each spouse in such title holding to:</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Possession?</td>
</tr>
<tr>
<td>b. Income?</td>
</tr>
<tr>
<td>c. Lease the property?</td>
</tr>
<tr>
<td>d. Partition the property?</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>3. What disposition is made of the property on one spouse’s death?</th>
</tr>
</thead>
<tbody>
<tr>
<td>X⁵⁵</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>4. What is the result of adding the words “60% to John and 40% to Mary”?</th>
</tr>
</thead>
<tbody>
<tr>
<td>N/A⁶⁰</td>
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<tr>
<th>Realty conveyed or willed to:</th>
</tr>
</thead>
<tbody>
<tr>
<td>A “John Doe Mary Doe”</td>
</tr>
</tbody>
</table>

WYOMING

1. What type of tenancy is created thereby?
   - T/C
   - T/E
   - NS
   - T/C
   - J/T

2. What rights are acquired of each spouse in such title holding to:
   - a. Possession?
   - b. Income?
   - c. Lease the property?
   - d. Partition the property?
   - E
   - E
   - E
   - E

3. What disposition is made of the property on one spouse’s death?
   - X
   - Y
   - X
   - Y

4. What is the result of adding the words “60% to John and 40% to Mary”?
   - NC
   - NS
   - NC
   - NS

---

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---

Thomas N. Long
Cheyenne, Wyoming
December 3, 1996
REAL PROPERTY IN NAMES OF HUSBAND AND WIFE
Where John and Mary Doe are husband and wife at the time title passes to them, domiciled in the state indicated.

NOTES
1. But each spouse is accountable to the other for income received.
2. But lease signed by only one spouse is not binding on the other.
3. But neither spouse may lease property without the concurrence of the other.
4. With respect to community property, signature of only one spouse required if lease for less than one year.
5. Neither spouse may require partition during marriage with respect to community property, but may with respect to separate property.
6. Still a presumption of community property, unless property was acquired prior to 1-1-75 by a married woman under an instrument in writing, in which case it will be presumed that her undivided half interest is held as separate property, held as tenant in common (the other half of the property would be community property).
7. Lease by one spouse can affect only his or her interest in property.
8. If transfer occurred after 1-1-77.
9. But if express words of survivorship are added (e.g., “as joint tenants with right of survivorship and not as tenants in common”), a joint tenancy with right of survivorship is created.
10. Voluntary partition is available during continuation of the community, but judicial partition is available only after termination of the community regime.
11. Would be separate property of each spouse in proportions stated.
12. Probably applies only if conveyance occurred on or after 12-10-75.
13. Other than homestead.
14. Assuming acquisition on or after 7-1-73.
15. Either spouse may sign if lease is for five years or less, otherwise both must sign.
16. But lease cannot affect right of other spouse to possession.
17. If conveyance occurred after 2-2-72.
18. Unless acquired by gift, devise, descent, or purchase with separate funds; except that, in California, property could be acquired with separate property funds and still result in community property (e.g., by equal contribution by both spouses, or by unequal contribution and a gift by one spouse).
19. Unless under sole management of such spouse.
20. Either spouse is presumed to have authority to act for both, but must benefit both and be with acquiescence of the other.
21. The impact of the new Pennsylvania Divorce Code (effective 3-19-91) on the matters covered by this Study has not been determined.
22. In the case of realty conveyed, required proof of acceptance by both spouses to rebut presumption of community property.
23. In Arizona, if really willed, then creates tenancy in common.
24. In Arizona, if really willed, then law is not settled.
25. In Arizona, if really willed, then each spouse has right of partition.
26. In Mississippi, it must manifestly appear from instrument that a joint tenancy by the entireties with right of survivorship is intended, and general practice is to add “with full rights of survivorship and not as tenants in common.”
27. Creates tenancy in common in the proportions stated.
27a. Creates joint tenancy in which interests of co-tenants during their mutual lifetimes are in proportions stated, and entire passes to survivor at death of first to die.
28. But lease would fail if wife survives husband, without her prior joinder or consent.
29. But T/E if words “husband and wife” follow designation.
30. May be partitioned by divorce.
31. No statutory or case law on point, but there is a presumption of creation of T/E where conveyance to husband and wife.
32. In Alabama, if title is taken as “tenants in common with right of survivorship,” neither party can partition the property and the property will pass to the survivor at the first death.
33. In Alaska, as to column A, see Fauck v Estate of Hasians, 714F2d 354, 355, where the court held that the second sentence in AS 34, 15, 110 (b) was not a condition precedent to a creation of a tenancy by the entireties.
34. All property of husband and wife acquired after marriage is community property (Idaho Code § 32-906), except property acquired by gift, bequest, devise, descent or as the proceeds of separate property (Idaho Code § 32-903). Every interest in real property created in favor of two or more persons is a tenancy in common unless acquired in partnership or as community property, or declared in the instrument of conveyance to be a joint tenancy. (Idaho Code §§ 55-104 and 55-508.)
35. A tenancy in common may be partitioned (Idaho Code ¶ 6-501), but community property may not.
36. It is not clear whether the phrase “as tenants in common” is sufficient to overcome the presumption that property acquired during marriage is community property.
37. The Idaho courts have held that depositing funds in a joint account does not create a joint tenancy with right of survivors in the absence of clear and convincing evidence of the depositor’s intent. Estate of Lewis, 97 Idaho 299, 543 P.2d 852 (1975); The Idaho First National Bank v. First National Bank of Caldwell, 81 Idaho 285, 340 P.2d 1094 (1959). It is likely that the same standard would be applied to real property. In that case, the form of the grant is insufficient to create a joint tenancy with right of survivorship.

38. Homestead property only created after October 1, 1990. Reverts to joint tenancy if spouses create and maintain a different homestead. Tenancy in common created upon dissolution of marriage unless Court determines otherwise.

39. If express words of survivorship are added, a tenancy by the entirety would be created.

40. See civil code art. 1493, 1495, 1499, 568, 1493, 1514 for issues relating to “forced heirship.”

41. Assuming acquisition on or after February 11, 1980.

42. Lease requires joinder of other spouse.

43. In North Carolina, generally a conveyance to a husband and wife creates a tenancy by the entirety unless a contrary intention appears. Although a contrary intention appears under this scenario, since there is no community property law in North Carolina, it is unclear whether such a conveyance would result in a tenancy by the entireties or a joint tenancy.

44. Survivorship abolished in joint tenancies unless provided for by contract.

45. An estate in joint tenancy is disfavored. See Davis v. Davis, 75 S.E.2d 46, 47 (S.C. 1953).

46. The estate of tenancy by the entirety does not exist in South Carolina. Davis v. Davis, 52 S.E.2d 46, 47 (S.C. 1953).


48. A cotenant has the right, in common with other cotenants, to the possession of the property owned in common, but no distinction is made in the case law as to whether the cotenants are joint tenants or tenants in common. See Watson v. Little, 79 S.E.2d 384, 387 (S.C. 1953).

49. See generally Cain v. Cain, 31 S.E. 278 (S.D. 1898); no distinction is made in the case law as to whether the cotenants are joint tenants or tenants in common.

50. See generally Moore v. Maes, 52 S.E.2d 204, 208 (S.C. 1949); no distinction is made in the case law as to whether the cotenants are joint tenants or tenants in common.

51. Unless the conveyance included express words of survivorship. If express words of survivorship are added, a tenancy in common with right of survivorship can be created. See South Carolina nat’l Bank v. Halter, 359 S.E.2d 74, 78 (S.C. Ct. App. 1987).


53. See Marriage of Martin, 32 Wn. App. 92 (Wash. Court of Appeals, 1982), and Estate of Salvini, 65 Wash. 2d 442 (Wash. Supreme Court 1964). Most recently, Division 1 of the Washington Court of Appeals in Marriage of Olivares, 9 Wash. App. 2d 324 (1993), has ruled that this presumption will prevail unless there is a “contemporaneous clearly stated intent by the donors to the contrary.” There is a statutory presumption that property held by husband and wife in joint names is community property. R.C.W. 64.28.020. These same principles will apply to a conveyance using the language in Columns B, D or E. Although there are no cases on point, it is probable that R.C.W. 64.28.040 (dealing with joint tenancy with right of survivorship between spouses) will apply.

54. Community property must be co-owned (50%-50%). A devisee which uses some other ownership might result in a Washington court determining that this is not a community property ownership under the theory that the language evidences the intent that the property not be community in nature. The most logical result would be a form of true tenancy in common between the spouses.

55. Joinder of both spouses is required.

56. It appears that partition is not available as a matter of right, but various specific statutory remedies are available to either spouse under specific circumstances.

57. Unsettled; probably ineffective to vary the result that the spouses would hold the homestead as survivorship marital property with each owning an undivided one-half marital property.

58. This result is not clear; presumably, tenancy by the entirety (not recognized as such in Wisconsin) would be equated with joint tenancy, with the result that survivorship marital property is created.

59. No dower, curtesy, elective share or equivalent is provided under Wisconsin law with respect to the decedent’s one-half interest in former marital property.

60. Unsettled; probably ineffective to vary the result that the spouses would hold the real estate as marital property or survivorship marital property, as applicable, with each owning an undivided one-half marital property interest.

61. Unsettled; it is possible that the percentages would be disregarded and a joint tenancy would be created.

62. This result is not clear; presumably, tenancy by the entirety (not recognized as such in Wisconsin) would be equated with joint tenancy.

63. Texas Family Code provides all property acquired by either spouse during marriage is community property except property acquired by gift, devise or descent and recovery for personal injuries (except loss of earning capacity). Section 5.01. All property possessed by either party during or on dissolution of marriage is presumed to be community. Section 5.02.