

How to Transfer Real Property Owned in a **Joint Tenancy** or in a **Life Estate** Without Probate



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How to Transfer Real Property Owned in a **Joint Tenancy**



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Real Property Owned

- **Joint Tenants (JT) With Right of Survivorship**
 - Two or more persons own same property



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JT can be held between:

- Married couples
- Siblings
- Parents & children
- Person unrelated



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Typical Wording Used to Create Joint Tenancy

- ***John Jones and Mary Jones as joint tenants with right of survivorship not tenants in common.***



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Transferring real property owned as joint tenants with right of survivorship to surviving joint tenant

- Acknowledgement Statement of Termination of Joint Tenancy



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Acknowledged Statement



- Signed and Acknowledged before a Notary Public

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Cost



- \$7 per page
- Meets the legislative "standard" format

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Acknowledgement Statement of Termination of Joint Tenancy

- Found at:
 - Senior Long-Term Care Division
 - www.dphhs.mt.gov



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Required

- Montana Realty Transfer Certificate Form 488



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Montana Realty Transfer Certificate

- Found at:
 - County Clerk and Recorder Office
 - Montana Department of Revenue
 - www.revenue.mt.gov



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How to Transfer Real Property Owned in a *Tenancy in Common*



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Real Property Owned

- **Tenants in Common**
 - Each person owns an undivided interest in the same real property



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Tenancy in Common can be held between:

- Married couples
- Siblings
- Parents & children
- Person unrelated



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Typical Wording Used to Create Tenants in Common

- ***John Jones and Mary Jones as tenants in common.***



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Transferring real property owned as tenants in common

- **Written Will**



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Transferring real property owned as tenants in common

- **No Written Will**
 - Determined during district court intestacy proceeding



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MSU Extension MontGuide

- **Dying Without a Will in Montana:**
 - www.msuextension.org
 - Search "Dying Without a Will"



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Dying Without a Will in Montana



- Website
 - Interactive
 - Answer questions
- **Yes**
- **No**

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Dying Without a Will in Montana



- **Website:**
 - *on business card*
 - www.montana.edu/dyingwithoutawill

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Dying Without a Will in Montana



- **Contact for CD**
(if have slow Internet Service)



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How to Transfer Real Property Owned in a *Life Estate*



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Real Property Owned

- **Life Estate**
 - Right to the possession, use & income of property
 - Duration of a person's life



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Life Estate Interest

- **Terminated at death of life tenant**
 - Transfers to the remainderman without the necessity of probate



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Transferring real property owned as joint tenants with right of survivorship to surviving joint tenant

- Acknowledgement Statement of Termination of Life Estate Form



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Acknowledgement Statement of Termination of Life Estate Form Recorded

- The public record is updated to show:
 - Life estate has been terminated
 - Future property tax bills sent to remainderman



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Acknowledged Statement



- Signed and Acknowledged before a Notary Public

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Acknowledgement Statement of Termination of Joint Tenancy

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Summary

- Montana legislature has provided a way for survivors to update the public record of ownership.

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Summary

- Surviving joint tenants or remainderman can update public record outside the probate process
 - Filing appropriate documents with clerk and recorder's office in the county where the land is located

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Acknowledgement

- Business Estates, Tax and Real Property Section: State Bar of Montana



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Acknowledgement

- Montana Association of Clerk and Recorders

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Acknowledgement

- Senior and Long-Term Care Division: Montana Department of Public Health and Human Services



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