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SURVIVORSHIP DEED

An interesting estate planning tool is a warranty deed with survivorship tenancy. If two or more persons hold their interest in real property as survivorship tenants, each tenant holds an equal share of the title during their lives and upon the death of either of them, the title transfers to the surviving tenant without any court action. By placing your real estate in survivorship form, the property may be transferred upon the death of a party by recording a death certificate and an affidavit with the county recorder. This alleviates the need for probate court action and passes the entire interest in the property to the surviving individual(s).

Survivorship tenancy ownership has the following characteristics:

- (1) Each of the survivorship tenants has an equal right to share in the use, occupancy, and profits of the real estate.
- (2) Each is subject to a proportionate share of the costs related to ownership and use of the real property.
- (3) A person selling real estate under a land contract may own the property in survivorship form.
- (4) A creditor of a survivorship tenant may enforce a lien against the interest of one or more survivorship tenants by an action to marshal liens.
- (5) If the entire title to the parcel of real property is held by two survivorship tenants who are married and subsequently become divorced the survivorship tenancy ends and each party consequently owns an undivided one-half interest as tenants in common.

In an age where many persons try to avoid probate court expenses and fees, these documents are excellent tools. A review of your deed by an attorney is well advised.

The information you obtain at this site is not, nor is it intended to be, legal advice. You should consult an attorney for individual advice regarding your own situation.

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