

Neighbor's News Alert

NAME and VESTING FORM REQUIREMENTS

POLICY and PROCEDURE:

POLICY

NFC does not allow any Staff Member to determine how a borrower's name should be reflected or how a borrower will hold title vesting, as doing so constitutes the practice of law. How a borrower chooses to have their name and title vesting reflected on the loan application and loan documents is a personal decision and has important legal ramifications. This information must be determined early in the transaction to avoid delays.

NFC will require that the borrower complete and sign a "Name and Vesting Request" form for each file, prior to issuing loan documents.

PROCEDURE

Loan Officers, prior to ordering credit reports are to inquire from the borrower their legal name(s), whether or not they use their middle name or middle initial and for the correct spelling. Secondly, whether that is how the borrower wants their name reflected on the loan application. Legal names should be used on the loan application and credit run with the same name. This will ensure NFC is not adding additional AKAs to the borrower's credit profile. For example; Bob is likely Robert, Chris likely Christopher and Debbie could be Deborah or Debra.

The NFC "Name and Vesting Request" form will be required; completed and signed by the borrower, prior to ordering loan documents. Loan Officers are to supply the form along with the "Title Vesting Interests" chart to the borrowers with initial loan disclosures. If a borrower seeks legal assistance on how to take title, the forms can be left with the borrower and the Loan Officer must ensure the form is completed and signed before loan documents are requested. The Underwriting Department will add the form to the loan approval as a Prior to Document (PTD) condition.

NFC's Underwriting Department will check that the form is completed entirely and signed prior to the file being cleared for Loan Documents.

NAME and VESTING REQUEST

How should I take ownership of the property I am buying? It's an important question and it's often asked to industry professionals. Although many professionals can identify the many methods of owning a property, they may not recommend a specific form of ownership, as doing so would constitute practicing law. The question of how to take ownership is a greater concern now as family structures change. For example, a step or mixed family may have a greater concern for a particular vesting to protect the heirs of a first spouse or siblings. The form of title vesting determines future rights and probate implications for that particular property. You are encouraged to seek advice from an Attorney, Tax Consultant or other qualified professional.

Attached are common forms of vesting. **After you have determined how you wish to hold title vesting, complete the two sections below. Your formal loan documents will not be drawn until this form is completed in its entirety.**

We hereby request the loan documents to be drawn up in the following names and vesting...

Legal name (s) _____
(This is how you want your name to appear; with or without middle name or initial, Jr. Sr. etc)

Title Vesting _____
(This is how you want to be legally vested; Married Joint Tenants, Married Community Property, etc.)

Signature

Signature

SOLE OWNERSHIP

- A man or woman who has never been married.
Example: John Doe, a single man.
- An Unmarried Man/Woman: A man or woman, who having been married; is legally divorced.
Example: John Doe, an unmarried man.
- A Married Man/Woman, as His/Her Sole and Separate Property: When a married man or woman wishes to acquire title as their sole and separate property, the spouse must consent and relinquish all right, title and interest in the property by deed or other written agreement.
Example: John Doe, a married man, as his sole and separate property.

CO-OWNERSHIP

Community Property: Property acquired by husband and wife, or either during marriage, other than by gift, bequest, devise, and descent or as the separate property of either is presumed community property.

Example: John Doe and Mary Doe, husband and wife, as community property.

Example: John Doe and Mary Doe, husband and wife.

Example: John Doe, a married man.

- Joint Tenancy: Joint and equal interests in land owned by two or more individuals created under a single instrument with right of survivorship.
Example: John Doe and Mary Doe, husband and wife, as joint tenants.
- Tenancy in Common: Under tenancy in common, the co-owners own undivided interests; but unlike joint tenancy, these interests need not be equal in quantity and may arise at different times. There is no right of survivorship; each tenant owns an interest, which on his or her death vests in his or her heirs or devisee.
Example: John Doe, a single man, as to an undivided $\frac{3}{4}$ interest, and George Smith, a single man as to an undivided $\frac{1}{4}$ interest, as tenants in common.
- Trust: Title to real property in California may be held in trust. The trustee of the trust holds title pursuant to the terms of the trust for the benefit of the trustor/beneficiary.

The preceding summaries are a few of the more common ways to take title to real property in California and are provided for informational purposes only.

	Community Property	Joint Tenancy	Tenancy In Common	Tenancy In Partnership	Title Holding Trust	Community Property Right of Survivorship
Parties	Only husband and wife	Any number of persons (can be husband and wife)	Any number of persons (can be husband and wife)	Only partners (any number)	Individuals, groups of persons, partnership or corporations, a living trust	Only husband and wife
Division	Ownership and managerial interests are equal (except control of business is solely with managing spouse)	Ownership interest must be equal	Ownership can be divided into any number of interests equal or unequal	Ownership interest is in relation to interest in partnership	Ownership is a personal property interest and can be divided into any number of interests	Ownership and managerial interests are equal
Title	Title is in the "community". Each interest is separate but management is unified	Sale or encumbrance by joint tenant servers joint tenancy	Each co-owner has a separate legal title to his/her undivided interest	Title is in the "partnership"	Legal and equitable title is held by the trustee	Title is in the "community," management is unified
Possession	Both co-owners have equal management and control	Equal right of possession	Equal right of possession	Equal right of possession but only for partnership purposes	Right of possession as specified in the trust provisions	Both co-owners have equal management and control
Conveyance	Requires written consent of other spouse or actual conveyance by deed. Separate interest is devisable by will	Conveyance by one co-owner without the others breaks the joint tenancy	Each co-owner's interest may be conveyed separately by its owner	Purchaser acquires interest that partnership owned	Designated parties with the trust agreement authorize the trustee to convey property. Also a beneficiary's interest in the trust may be transferred	Right of survivorship may be terminated pursuant to the same procedures by which a joint tenancy may be severed
Purchaser's Status	Purchaser can only acquire whole title of community; cannot acquire a part of it	Purchaser will become a tenant in common with other co-owners in the property as to the purchaser's interest. Other owners may remain joint tenants	Purchaser will become a tenant in common with other co-owners in the property	Purchaser acquires interest that partnership owned	A purchaser may obtain a beneficial interest by assignment or may obtain legal and equitable title from the trust	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 in severalty. 1/2 goes by will to descendant's devisee or by succession to survivor	On co-owner's death his/her interest ends and cannot be disposed of by will. Survivor owns the property by survivorship	On co-owner's death his/her interest passes by will to devisee or heirs. No survivorship right	On partner's death his/her partnership interest passes to the surviving partner pending liquidation of the partnership. Share of deceased partner then goes to his/her estate	Successor beneficiaries may be named in the trust agreement, eliminating the need for probate	Upon the death of a spouse, his/her interest passes to the surviving spouse, without administration, subject to the same procedures as property held in joint tenancy
Successor's Status	If passing by will, tenancy in common between devisee and surviving results	Last survivor owns property	Devisee or heirs become tenants in common	Heirs or devisee have rights in partnership interest but not specific property	Defined by the trust agreement, generally the successor becomes the beneficiary and the trust continues	Surviving spouse owns property
Creditor's Rights	Property of community is liable for debts of either spouse which are made before or after marriage. Whole property may be sold on execution sale to satisfy creditor	Co-owner's interest may be sold on execution sale to satisfy creditor. Joint tenancy is broken, creditor becomes a tenant in common	Co-owner's interest may be sold on execution sale to satisfy his/her creditor. Creditor becomes a tenant in common	Partner's interest cannot be seized or sold separately by his/her personal creditor but his/her share of profits may be obtained by a personal creditor. Whole property may be sold on execution sale to satisfy partnership creditor	Creditor may seek an order for execution sale of the beneficial interest or may seek an order that the trust estate be liquidated and the proceeds distributed	Property of community is liable for debts of either which are made before or after marriage; whole property may be sold on execution sale to satisfy creditor
Presumption	Strong presumption that property acquired by husband and wife is community	Must be expressly stated	Favored in doubtful cases except husband and wife cases	Arise only by virtue of partnership status in property placed in partnership	A trust is expressly created by an executed trust agreement	Must be expressly stated