



SELLER'S GUIDE: OWNERSHIP BETWEEN CONTRACT & CLOSING IN ALABAMA

When joint tenants with right of survivorship sign a purchase agreement to sell an Alabama property, changes to their ownership are automatically triggered. This guide is here to help sellers understand these changes before signing a purchase agreement.

This guide is for information only and is not intended as legal advice. If you need legal advice, please seek guidance from retained counsel.

JOINT TENANCY WITH RIGHT OF SURVIVORSHIP:

Multiple people each own an equal share of a property. If one passes away, that owner's interest passes to the surviving owner(s).

- Example: Annie, Bella, and Carol each own a one-third share of a property as joint tenants with right of survivorship. Carol passes away. Her share gets split evenly between Annie and Bella, who now each own a one-half share of a property.

TENANCY-IN-COMMON:

Multiple people each own an interest in the property, which may be equal or unequal. If one owner passes away, that owner's interest does not automatically pass to the other owners. Instead, it passes according to the deceased owner's estate plan or applicable inheritance laws.

- Example: Annie owns a one-half share in a property, while Bella and Carol each own one-quarter shares. Carol passes away. Her share goes to the beneficiaries listed in her will. Annie continues to own one-half of the property and Bella continues to own one-quarter of the property.

WHAT HAPPENS WHEN YOU SIGN

Under Alabama case law, when joint tenants with right of survivorship sign a purchase agreement to sell their property, their ownership automatically changes to a tenancy-in-common unless the purchase agreement states that they want to keep their joint tenancy with right of survivorship. Upchurch v Upchurch (Ala. 2023).

YOUR OPTIONS

Before signing the purchase agreement, you should decide whether you want to:

- Maintain your joint tenancy with right of survivorship; or
- Allow your ownership to convert to a tenancy-in-common.

WHY THIS MATTERS BEFORE YOU SIGN

This decision determines how you will own the property between signing the purchase agreement and closing. It can affect what happens to a seller's ownership interest if that seller passes away before closing.

DECIDING WHAT'S RIGHT FOR YOU

Your real estate licensee can provide the general information contained in this guide and explain the options provided in the purchase agreement. However, your real estate licensee cannot provide legal advice, advise about how either option may affect your individual circumstances, or recommend which option you should choose.

If you need additional information about these ownership types, how either option may affect you, or which option is appropriate for your circumstances, speak with an attorney before signing the purchase agreement. If you have questions about potential tax consequences, speak with a tax professional.