



LICENSEE'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 licensees understand these changes and explain them to sellers.

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:

Joint tenancy is a type of ownership where multiple people each have an equal interest in a property. Right of survivorship means that if one of the owners passes away, the other owners absorb the deceased owner's share of the property.

- 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:

Tenancy-in-Common is a type of ownership where multiple people each own an interest in a property without right of survivorship. The shares can be equal or unequal.

- 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.

ALABAMA LAW

The Alabama Supreme Court has ruled that when joint tenants with right of survivorship execute a purchase agreement, they automatically become tenants-in-common until closing. The only way to prevent this is for the sellers to state in the purchase agreement that they want to maintain their joint tenancy with right of survivorship through closing. Upchurch v. Upchurch (Ala. 2023).

THE REAL ESTATE LICENSEE'S ROLE

Real estate licensees are allowed to explain the information listed above. If a consumer knows that they would like to maintain their joint tenancy with right of survivorship, or that they are okay with the conversion to tenancy-in-common, a real estate licensee can memorialize that decision in the purchase agreement by checking the appropriate box or adding language to that effect.

A real estate licensee cannot help a consumer decide which option is best for them. If a consumer needs help deciding, they should consult with an attorney and/or tax professional.