

Tenancies-in-Common - By Jurisdiction

Executive Summary

TENANCIES-IN-COMMON

ANNUAL REPORT EXECUTIVE SUMMARY

August 2018

Overview

A tenancy-in-common (TIC) is an ownership form in which each owner holds an undivided interest in property with no survivorship rights. All of the surveyed jurisdictions address some form of common ownership without survivorship rights, and most identify that relationship as a TIC.

Most general laws regarding property ownership in a TIC have existed for many years, in some cases relating back to the nineteenth century. However, only a few states have recently explored statutory schemes addressing a TIC as an investment vehicle (except in the context of undivided fractional interests of mineral rights), and the relationship of that interest's sale with real estate licensees. At the time of this survey, only Utah has enacted an extensive statutory scheme on the topic.

Nonsecuritized TICs

Seventy-two percent of the surveyed jurisdictions generally presume that a deed granted to multiple parties creates a TIC unless a contrary intent is expressly stated, but in some cases the presumption applies only if the parties are not spouses. Only Montana presumes that a deed naming any multiple grantees creates a joint tenancy, and not a TIC.

Many jurisdictions emphasize that a TIC does not automatically create other entities. For example, 94 percent of the jurisdictions provide that a TIC, by itself, does not create a partnership, even if the co-owners share profits made by using the property. Similarly, 24 percent of the states clarify that a TIC does not create a nonprofit or other similar association, even if the co-owners share the property's use.

Only nine states have revised their provisions related to nonsecuritized TICs since May 2015, and during the past five years, no states made significant, relevant changes to applicable provisions. Colorado overhauled its property registration system. Beginning January 1, 2018, all property owners must re-register under the new system and the registration must include the name of each owner of the registered land that is listed on the certificate of title.

State TIC Securities

Only Utah has enacted a statutory scheme that provides that a "security" does not include certain "undivided fractionalized long-term" real property estates. (Similar bills, such as those introduced in Montana and Oregon in 2007, have not passed into law.) The Utah real estate division has also promulgated regulations that address investigations and remedies related to real estate licensees dealing with the estates. In 2016, Utah repealed or revised its previously applicable statutes and enacted an Undivided Fractionalized Long-Term Estate Sales Practices Act that contains those provisions, as revised.

However, 63 percent of the surveyed jurisdictions address mineral holdings in a manner that suggests a TIC, and define "security" to include, among other things, "fractional undivided interests" in oil, gas, or other mineral rights. In another tangentially related topic, a significant majority (96 percent) of the jurisdictions provide that a security that shows ownership by tenants in common may not obtain a security registration in beneficiary form.

Between August 2016 and August 2017, five jurisdictions revised their relevant laws. While many of these amendments were non-significant, Texas added a provision indicating that a jointly held ownership interest, which includes an interest held as tenants in common, may be voted by any one of the record owners.

TIC Ownership

All jurisdictions discuss some rights, limitations, and other aspects of owning property as a tenant in common. The following are some of the most commonly addressed topics that explicitly mention TICs:

- 94 percent discuss a tenant's right to bring an action for partition or sale;
- 63 percent permit one cotenant to bring an action for waste against another cotenant;
- 63 percent address tenants in common in the context of property taxes payable, homestead credits, or other tax-related issues;
- 59 percent explicitly give one TIC the right to sue for a denial of rights or ouster;
- 56 percent expressly address one cotenant bringing an action for an accounting or to recover his or her share of the estate's rents or profits;
- 28 percent describe spousal rights in property held in a TIC; and
- 28 percent address the effect of a TIC on voting rights in various special districts.

Since 2011, ten states have adopted the Uniform Partition of Heirs Property Act, which applies to certain property held as a TIC. In the past year, Iowa enacted a new partition law which includes provisions governing the partition of heirs property.

Note that this survey does not address the effect owning property as a TIC has on a person's qualification for state medical assistance.

Eleven states revised their laws related to TIC ownership between August 2016 and August 2017, but many of those changes were conforming, not substantive, or not relevant to this survey. The most significant changes were as follows:

- New Mexico (effective January 1, 2018) and Texas (effective September 1, 2017) both adopted the Uniform Partition of Heirs Property Act that applies to certain property held in a TIC;
- California passed a law providing that a tort claim against any owner of a separate interest which arises solely through an ownership interest as a tenant in common in the common area of a common interest development shall be brought only against the association and not against the individual owners of the separate interests, if certain insurance requirements are met.
- Nevada added a provision regarding fractional interests in additional property held as TIC. Any owner who represents a majority of the ownership of the additional property may act on behalf of all of the additional property owners; and
- Texas added a provision regarding adverse possession by a cotenant heir against another cotenant heir.

In the past year, West Virginia passed a "Cotenancy Modernization and Majority Protection Act" which governs mineral deposit development by the majority of cotenants, effective June 3, 2018.

TIC Sale or Transfer

General sales or transfers of TICs are not specifically addressed in the jurisdictions surveyed. However, 20 percent of the jurisdictions provide that certain TIC transfers do not trigger the state recording or transfer tax. Also, three states explicitly exempt certain TIC transfers from their disclosure requirement statutes.

Five states revised their statutes related to TIC sales or transfers between August 2016 and August 2017. Most of those changes were minor, conforming, or not relevant to the specific topics addressed in this survey. Oregon passed a law regarding receivership of an interest in property held as a tenant in common. Under certain circumstances, the receiver may sell the interest that is estate property and the interest of any co-owner with a court order. In 2018, Wisconsin enacted a law providing that a fractional interest in real property owned by an individual as a tenant in common may be transferred without probate to a designated "transfer on death" beneficiary.

Alabama

Alabama, Nonsecuritized TICs

CREATING A TIC

No specifically relevant provisions were located.

OTHER RELEVANT PROVISIONS

Partnership formation

A TIC, by itself, does not establish a partnership, even if the co-owners share profits made by using the property.

Nonprofit association formation

A TIC, by itself, does not establish a nonprofit association, even if the co-owners share the property's use for a nonprofit purpose.

Statutory sections amended and renumbered 2009.

[Ala. Code §§ 10A-8-2.02, -17-1.02 \(2018\)](#)

Alabama, State TIC Securities

RELEVANT STATE SECURITIES LAWS

No specifically relevant provisions were located.

Alabama's securities laws define "securities" to include, among other things, "subscription or contracts covering or pertaining to the sale or purchase of beneficial interest in title to property."

NO REGISTRATION IN BENEFICIARY FORM

Individuals whose security registration shows multiple ownership as tenants in common may not obtain registration in beneficiary form. Multiple owners of a security registered in beneficiary form hold as joint tenants, tenants by the entireties, or owners of community property held in survivorship form, not as tenants in common.

Statutory section 8-6-2 amended 1990; § 8-6-141 enacted 1997.

[Ala. Code §§ 8-6-2, -141 \(2018\)](#)

Alabama, TIC Ownership

TIC OWNERSHIP LIMITATIONS

No specifically relevant provisions were located.

TIC OWNERSHIP RIGHTS

Action for partition or sale

The circuit court may divide, partition, or sell for partition, any real property held by tenants in common, even if the defendant denies the plaintiff's title or sets up adverse possession. Real property held by tenants in common may be divided among them upon the written application of one or more of the parties. If the court is satisfied that the property is held and owned in common, it must decree the property to be divided or partitioned among the owners according to their interests.

In partition proceedings between tenants in common, the court may determine a reasonable attorney's fee and include it in the costs of the proceeding and as a lien in the case of partition in kind.

After the appraiser's or the commissioner's report, any tenants in common seeking to purchase the interests of those filing the petition have 30 days to pay the designated amount to the court. Upon the court's receipt of the payment and its approval, the clerk must execute and deliver the proper instruments to transfer title to the purchasers.

Any property held by tenants in common, upon written application, may be decreed to be sold by the probate court if it cannot be equitably divided or partitioned.

Alabama Uniform Partition of Heirs Property Act

In 2014, Alabama enacted the Alabama Uniform Partition of Heirs Property Act ("Act"). The Act applies to "heirs property," which is defined as real property held in tenancy in common that satisfies all of the following requirements as of the filing of a partition action:

- no agreement in a record binds all cotenants regarding the property's partition;
- one or more of the cotenants acquired title from a relative (either living or deceased); and
- either (i) 20 percent or more of the interests are held by cotenants who are relatives; (ii) 20 percent or more of the interests are held by an individual who acquired title from a relative; or (iii) 20 percent or more of the cotenants are relatives.

The Act applies to partition actions filed on or after January 1, 2015.

In an action to partition real property, the court must determine whether the property is heirs property. If the court determines that the property is heirs property, the property must be partitioned under the Act unless all cotenants agree otherwise in a record.

Generally, if the court determines that the property that is the subject of a partition action is heirs property, the court must determine the property's fair market value by ordering an appraisal. However,

- if all cotenants have agreed on the property's value or to another valuation method, the court must adopt that value or the value produced by the agreed valuation method; and
- if the court determines that the appraisal's evidentiary value is outweighed by its cost, the court, after an evidentiary hearing, must determine the property's fair market value.

Statutory requirements and procedures related to requests for partition by sale and the purchase of interests are set forth in detail in Ala. Code § 35-6A-7.

If the other cotenants do not purchase all of the interests of all cotenants that requested partition by sale, or, if after conclusion of the buyout, a cotenant remains that has requested partition in kind, the court must order partition in kind, unless the court finds that partition in kind will result in great prejudice to the cotenants. If the court does not order partition in kind, the court must order partition by sale, or, if no cotenant requested partition by sale, the court must dismiss the action.

Action against a cotenant

A tenant in common may bring an action against his cotenant for "receiving more than his lawful proportion."

Redemption rights

An owner, including, among others, a tenant in common, has the right to redeem real estate sold to satisfy a tax collector's lien.

Real estate sold for taxes and purchased by the state may be redeemed by any person with a legal or equitable interest in the property, including a tenant in common, among others. The redemption may be of any part of the land sold.

A mortgagee, lienholder, creditor, or other interested person has a lien on the property for the amount he or she expended in the redemption; if the redemption is by a tenant in common, he will have a lien on the cotenant's interest.

Action for possession

If title to or possession of the premises is held by several persons jointly, by tenants in common or otherwise, they all are equally entitled to possession. Any "joint tenant" may bring a detainer action against a stranger and recover the entire possession for the benefit of all. (In this context, the term "joint tenant" appears to refer to any of a number of forms of multiple ownership, including a tenant in common.)

OTHER INCIDENTS OF OWNERSHIP

Creditors' rights

As used in the Alabama Fraudulent Transfer Act, "assets" include a debtor's property, but do not include "an interest in property held in tenancy in common for life with cross contingent remainder to the survivor in fee" to the extent the property is not "subject to process by a creditor holding a claim against only one tenant."

Division of assessment

When a municipality levies public improvement assessments against land owned by tenants in common, the municipality, upon an owner's petition, may divide the original assessment and apportion the improvement costs. Upon payment of the amount assessed against any separate division, the municipality must discharge that portion from the lien.

Also, when assessments are made for public improvements on property owned by tenants in common, and one of the owners wants the assessments to be paid, that owner may file a petition with the municipality asking it to divide the assessment among the tenants in common. After the municipality divides the assessment proportionately among the tenants in common, any tenant may pay his or her proportionate share of the assessments. In that event,

- the lien on that owner's undivided interest is discharged upon payment;
- the municipality may "adjust the cost of the proceedings with the petitioner"; and
- the action may proceed against the other tenants in common.

Dower rights payments

Except when the dower interest of a decedent's widow is sold during the administration of a decedent's estate, if

- land is sold for division among tenants in common;
- the land is taken by eminent domain; and
- one or more persons own a "dower or life interest" in the lands;

then, after the proceeds are paid into court, the court must, upon application, determine the dower or life estate's present value and pay that amount to the owner, with the remainder to be paid to the reversioners or remaindermen.

Statutory sections 6-6-312, 6-7-40, 11-48-100, 11-48-101, 11-48-102, 34-3-60, 35-6-20, 35-6-40, 35-6-45, 35-6-58, 40-5-46, and 40-10-143 amended 1940; § 35-4-190 amended 1945; § 35-6-102 amended 1979; § 8-9A-1 enacted 1989; § 40-10-120 amended 2009; §§ 35-6A-2, 35-6A-3, 35-6A-6, 35-6A-7, and 35-6A-8 enacted 2014.

[Ala. Code §§ 6-6-312; 6-7-40; 8-9A-1; 11-48-100, -101, -102; 34-3-60; 35-4-190; 35-6-20, -40, -45, -58, -102; 35-6A-2, -3, -6, -7, -8; 40-5-46; 40-10-120, -143 \(2018\)](#)

Alabama, TIC Sale or Transfer

GENERAL SALE AND TRANSFER PROVISIONS

No specifically relevant provisions were located.

OTHER RELEVANT PROVISIONS

Recordation taxes

If several deeds or instruments are executed by tenants in common for the "same consideration," only one of the documents is subject to the state's recordation taxes.

Recording upon purchase of interest following partition

Upon filing a petition for the sale or for the partition of property held by tenants in common, the court must generally provide for the purchase of the interests by the other tenants in common (or any one of them). Tenants in common interested in purchasing those interests must:

- notify the court at least 10 days before the trial date; and
- be allowed to purchase, even if a default has been entered against them.

Statutory section 35-6-100 enacted 1979; § 40-22-1 amended 2012.

[Ala. Code §§ 35-6-100; 40-22-1 \(2018\)](#)

Alaska

Alaska, Nonsecuritized TICs

CREATION OF A TIC

A "conveyance or devise of land or an interest in land made to two or more persons, other than to executors and trustees" creates a TIC, except that a husband and wife who acquire real property hold the property as tenants by the entirety unless

- expressly declared otherwise; or
- otherwise determined pursuant to the state's laws regarding community property trusts.

(Note that except for interests in personalty and tenancy by the entirety, Alaska has abolished joint tenancy. Generally, persons with an undivided interest in real property are considered tenants in common.)

OTHER RELEVANT PROVISIONS

Partnership formation

In determining whether parties have formed a partnership, neither a joint tenancy, a TIC, a tenancy by the entirety, joint property, common property, nor part ownership, by itself, establishes a partnership "even if the co-owners share profits made by the use of the property."

Statutory section 32.06.202 amended 2004; §§ 34.15.110 and 34.15.130 amended 1998; § 34.77.100 amended 2002.

[Alaska Stat. §§ 32.06.202; 34.15.110, .130; 34.77.100 \(2017\)](#)

Alaska, State TIC Securities

RELEVANT STATE SECURITIES LAWS

No specifically relevant provisions were located.

NO REGISTRATION IN BENEFICIARY FORM

Individuals whose registration of a security shows sole ownership by two or more as tenants in common may not obtain a registration in beneficiary form. Multiple owners of a security registered in beneficiary form may not hold it as tenants in common.

Statutory section amended 1996.

[Alaska Stat. § 13.33.302 \(2017\)](#)

Alaska, TIC Ownership

TIC OWNERSHIP LIMITATIONS

Action for waste

If a tenant in common commits waste on the property, a person injured by the waste may bring an action for damages arising out of the injury and may receive a judgment for treble damages. The judgment may be forfeiture of the estate and eviction if

- the plaintiff has a reversionary interest; and
- the "injury due to waste equals or exceeds the value of the interest held by the one committing the waste" or the waste is committed with malice.

TIC OWNERSHIP RIGHTS

Action for partition or sale

If several persons own real property as tenants in common and "one or more of them have an estate of inheritance or for life or years," one or more of the tenants in common may bring an action

- for a portion of the property according to the interested person's respective rights; and
- for a sale of the property (or part of it) if it appears that a partition would greatly prejudice the parties.

Action against a cotenant

A tenant in common may maintain an action against a cotenant for receiving more than the fair share of the rents and profits of the estate they own in common.

OTHER INCIDENTS OF OWNERSHIP

Creditors' rights

If an individual and another own property in Alaska as tenants in common or tenants by the entirety, the individual's creditor may obtain a levy on and sale of the individual's interest in the property, subject to the individual's right to claim an exemption. Either the creditor who has obtained a levy or a person who has purchased the interest at a sale, may partition the property or sever the individual's interest.

Statutory section 09.38.100 enacted 1982; §§ 09.45.260 and 09.45.740 enacted 1962; § 34.15.120 enacted 1949.

[Alaska Stat. §§ 09.38.100; 09.45.260, .740; 34.15.120 \(2017\)](#)

Alaska, TIC Sale or Transfer

No specifically relevant provisions were located.

Arizona

Arizona, Nonsecuritized TICs

CREATING A TIC

Except as otherwise provided by statute (situations involving "express words" or a husband and wife), all real property grants and devises to two or more persons create estates in common and not in joint tenancy, except grants or devises in trust, to executors, or to husband and wife.

Except as otherwise provided by statute or in an operating agreement, an assignment or issuance of an interest in a limited liability company to two or more natural persons creates a tenancy in common, except an assignment or issuance to a married couple.

OTHER RELEVANT PROVISIONS

Partnership formation

In determining whether a partnership is formed, tenancy in common, among other types of joint ownership, does not by itself establish a partnership, even if the "co-owners share profits made by the use of the property." However, the ownership creates a partnership if the parties have declared in a written partnership agreement that the property is partnership property subject to the terms of a partnership agreement and Arizona Statutes chapter 29.

Statutory section 29-1012 enacted 1996; § 29-732.01 enacted 2013, repealed effective Aug. 31, 2020; § 33-431 amended 2013.

[Ariz. Rev. Stat. §§ 29-1012\(C\)\(1\); 29-732.01; 33-431 \(2017\)](#); see also [2018 Ariz. Laws ch. 168](#) (to be codified as Ariz. Rev. Stat. § 29-3401, effective August 31, 2019)

Arizona, State TIC Securities

RELEVANT STATE SECURITIES LAWS

No specifically relevant provisions were located.

Arizona's securities laws define "securities" to include, among other things,

- fractional undivided interests in oil, gas or other mineral rights; and
- real property investment contracts.

"Real property investment contracts" include certain contracts for the sale or purchase of a *promissory note* secured by a mortgage, deed of trust or other real property lien.

In the context of fractional interests in an oil, gas or other minerals, "issuer" means the owner of "any oil, gas or mineral lease, permit or right," "whether whole or fractional, fractional interests in which are created for the purpose of a public offering."

Before offering subdivided lands for sale or lease, a subdivider generally must notify the commissioner in writing of the subdivider's intention (as required by § 32-2181), among other things. Although these requirements generally apply to the creation of six or more lots, parcels or fractional interests, they do not apply when the "lots, parcels or fractional interests are registered as securities" under federal or Arizona law.

NO REGISTRATION IN BENEFICIARY FORM

Individuals whose security registration shows multiple ownership as tenants in common may not obtain registration in beneficiary form. Multiple owners of a security registered in beneficiary form hold as joint tenants or owners of community property held in survivorship form, not as tenants in

common.

Statutory section 14-6302 enacted 1995; § 44-1801 amended 2018; § 32-2181 amended 2012.

[Ariz. Rev. Stat. §§ 14-6302; 32-2181 \(2017\); 44-1801](#) (as amended by [2018 Ariz. Laws ch. 207](#))

Arizona, TIC Ownership

TIC OWNERSHIP LIMITATIONS

No relevant provisions were located.

TIC OWNERSHIP RIGHTS

Action against a cotenant

In an action regarding a right of recovery by a tenant in common against his cotenant, the plaintiff must show

- evidence of the right; and
- that the defendant either denied plaintiff's right or committed an act amounting to a denial.

Contractors' bonds

A contractors' bond or deposit is for the benefit of and subject to claims by an owner or co-owner of nonresidential real property including, but not limited to, a tenant in common or its successor, who has a direct contract with the contractor and who is damaged by the contractor's failure to build or improve a structure or appurtenance on the real property in a manner that does

not comply with the requirements of any building or construction code applicable, or if no such code was applicable, according to the construction work standards approved by the registrar.

OTHER INCIDENTS OF OWNERSHIP

Municipal improvement objections

Generally, a person objecting to certain municipal improvements or to the extent of the assessment district may file a written protest with the city or town clerk within a specified time period. If the property is held by a tenancy in common and a cotenant signs the protest, only a proportionate share of the frontage represented by that cotenant's interest is counted in determining the frontage amount represented by the protest.

Electrical district elections

If the owners of real property in an electrical district have successfully petitioned the board to adopt an acreage voting system and if more than one owner holds a property's title, each owner may vote his or her proportional fractional share according to his or her ownership interest.

Statutory section 12-1252 amended 1939; § 48-507 amended 1985; § 48-1713 amended 2007; § 32-1152 amended 2013.

[Ariz. Rev. Stat. §§ 12-1252; 32-1152\(E\); 48-507, -1713\(B\)\(3\) \(2017\)](#)

Arizona, TIC Sale or Transfer

No specifically relevant provisions were located.

Arkansas

Arkansas, Nonsecuritized TICs

CREATING A TIC

A real estate interest granted or devised to multiple persons, other than executors and trustees, is a TIC unless expressly declared to be a joint tenancy.

OTHER RELEVANT PROVISIONS

Apartment ownership

An apartment may be held by multiple persons as tenants in common or otherwise.

Partnership formation

A TIC, by itself, does not create a partnership, even if the co-owners share profits made by using the property.

Statutory section 18-12-603 amended 1947; § 18-13-113 amended 1961; § 4-46-202 enacted 1999.

Ark. Code §§ 4-46-202(c)(1); 18-12-603, -13-113 (LexisNexis 2018)

[Arkansas, State TIC Securities](#)

RELEVANT STATE SECURITIES LAWS

No specifically relevant provisions were located.

However, in order for securities to be exempt under § 23-42-503(b) (which exempts securities of a certain aggregate amount from the requirements of §§ 23-42-501 and 23-42-502), each investing person must take title to real estate in his own name as a tenant in common.

In the context of "fractional undivided interests in oil, gas, or other mineral rights," "issuer" means the owner of the right who "creates fractional interests therein for the purpose of the offering."

NO REGISTRATION IN BENEFICIARY FORM

Individuals whose security registration shows multiple ownership as tenants in common may not obtain registration in beneficiary form. Multiple owners of a security registered in beneficiary form hold as joint tenants, tenants by the entireties, or owners of community property held in survivorship form, not tenants in common.

Statutory section amended 1993. Regulation amended 2014.

Ark. Code § 28-14-102 (LexisNexis 2018); [214-00-09 Ark. Code R. § 503.01\(B\)\(2\)\(d\) \(2018\)](#)

Arkansas, TIC Ownership

TIC OWNERSHIP LIMITATIONS

Accounting obligations

If a tenant in common takes profits and benefits in a greater proportion than his or her interest, that person must account for the profits and benefits to his or her cotenants.

Actions for waste

A person who trespasses and acts as follows must pay the injured person treble damages and costs:

- injures, destroys, or carries away a shade-tree or any timber, rails, or wood on another person's land;
- digs up or takes any "stone, ground, clay, turf, mold, fruit, or plants";

- cuts down or takes any "grass, grain, corn, cotton, tobacco, hemp, or flax"; or
- intentionally breaks glass in a building.

If the land is owned by tenants in common or other co-owners, any co-owner who did not consent to the trespass is entitled to treble damages, computed according to the co-owner's undivided interest.

TIC OWNERSHIP RIGHTS

Surface rights

All rights, claims or interests by a tenant in common to surface rights in real property that the tenant does not possess and that were created by intestate or testate distribution, are "conclusively deemed waived, abandoned, and forfeited" to the other tenant in possession, provided that:

- the tenant in common, who is not in possession and whose whereabouts are unknown, has not made a written demand on the tenant in possession for rents, profits, or possession of the surface rights for a twenty-year period; and
- at the end of the twenty-year period, the tenant in possession publishes notice of an intent to oust the tenant not in possession as a result of the abandonment and waiver.

Following the publication, the tenant in possession may bring a quiet-title action, and upon successful prosecution of the action, the tenant in possession holds the surface rights free and clear of the other tenant's claims.

This provision does not apply to mineral rights or other subsurface rights held by a TIC.

Accounting rights

Tenants in common may maintain civil actions against their cotenants who receive more than their share of the estate's benefits.

Partition actions

A person with any interest in, and desiring a division of, land held in a TIC may file a written petition for partition in the circuit court. The petition must include a property description, the names of each party with an interest in the property, the nature and amount of each interest, and a request for the division and for a sale if partition "cannot be made without great prejudice to the owners" and any other appropriate relief.

Uniform Partition of Heirs Property Act

In 2015, Arkansas enacted a Uniform Partition of Heirs Property Act (the "Act"). The Act applies to "heirs property," which is defined as real property held in tenancy in common that satisfies all of the following requirements as of the filing of a partition action:

- no agreement in a record binds all cotenants regarding the property's partition;
- one or more of the cotenants acquired title from a relative (either living or deceased); and
- either (i) 20 percent or more of the interests are held by cotenants who are relatives; (ii) 20 percent or more of the interests are held by an individual who acquired title from a relative; or (iii) 20 percent or more of the cotenants are relatives.

The Act applies to partition actions filed on or after January 1, 2016.

In an action to partition real property, the court must determine whether the property is heirs property. If the court determines that the property is heirs property, the property must be partitioned under the Act unless all cotenants agree otherwise in a record.

Generally, if the court determines that the property that is the subject of a partition action is heirs property, the court must determine the property's fair market value by ordering an appraisal. However,

- if all cotenants have agreed on the property's value or to another valuation method, the court must adopt that value or the value produced by the agreed valuation method; and
- if the court determines that the appraisal's evidentiary value is outweighed by its cost, the court, after an evidentiary hearing, must determine the property's fair market value.

If a cotenant requested partition by sale, the court, after the determination of value, must send notice to the parties that any cotenant except a cotenant that requested partition by sale may buy all the interests of the cotenants that requested partition by sale. Statutory requirements and procedures related to cotenant buyouts are set forth in detail in Ark. Code § 18-60-1007.

If the other cotenants do not purchase all of the interests of all cotenants that requested partition by sale, or, if after conclusion of the buyout, a cotenant remains that has requested partition in kind, the court must order partition in kind, unless the court finds that partition in kind will result in great prejudice to the cotenants. If the court does not order partition in kind, the court must order partition by sale, or, if no cotenant requested partition by sale, the court must dismiss the action.

Partition of oil and gas lease interests

If any land in fee and the oil and gas in, on, and under the lands is owned in a TIC (or otherwise co-owned) and there is no actual production of oil and gas and no outstanding oil and gas lease, any one or more of the owners may have a sale and partition of the entire oil and gas leasehold interest as provided by § 15-73-401.

Action against a cotenant

If tenant in common brings an action against his or her cotenant, the plaintiff must show that:

- at the time the action is brought, the defendant possessed the premises and the plaintiff had title to or the right to possess the premises, sufficient to maintain an ejectment action; and
- the defendant actually ousted the plaintiff or did an act that amounted to "a total denial of his or her right as a cotenant."

Redemption rights

If a tenant in common or other co-owner is entitled to redeem any land or lot sold for taxes, and if another entitled person does not join in the redemption certificate application, the clerk of court may make a certificate for the redemption of that portion of the land that the person making the application is entitled to redeem.

OTHER INCIDENTS OF OWNERSHIP

Tax liability

If

- land is owned by multiple persons as tenants in common (or otherwise); and
- one party paid the tax and penalty charged on his proportion of the tract or some of the remaining owners failed to pay their share; and
- the land has been or will be partitioned between them,

then, the tax and penalty paid is deemed to have been paid on the proportion of the tract set off to the owner who paid. The share of the co-owner who paid tax is held free from the rest of the tax or tax charged on the tract before partition. That part of the tract set off to the owner who did not pay his share of the tax is charged with the tax in the same manner as if the partition had been made before the tax was assessed.

The court must order the taxes, penalties and interest to be discharged out of the proceeds if land held by tenants in common is

- sold upon partition;
- taken by the election of any of the parties to the partition proceedings;
- sold at judicial sale; or
- sold at any administrator's, executor's, guardian's, or trustee's sale.

Authority to lease mineral lands

When mineral lands or severed mineral rights and interests are owned or held by multiple parties, as in a TIC, and there are no mining operations under valid mining and operating leases, any of the owners or holders, or their lessees, may have the lands or mineral interests leased and operated, in the manner provided by subchapter 3 of chapter 15-56 of the Arkansas Code.

Petition for reduction to acreage

If multiple persons own jointly or as tenants in common all the lots and blocks in any addition or division to any city or incorporated town in which the public has not used the streets and alleys for

the previous seven years, then the owners may have the addition or division "reduced to acreage" by petitioning the county court.

Home-to-Own Program eligibility

Generally, to be eligible for the Home-to-Own Program, a first-time homebuyer must not have had a "present ownership interest" in a principal residence at any time during the three-year period preceding the date on which the home-buyer executes the mortgage. "Present ownership interest" includes any outright ownership interest in a residence and a TIC or other co-owner interests held directly by the borrower or in trust for the borrower's benefit.

Applicability of fishing regulations

"Single owner," as used in the state's fishing regulations, includes several persons who own a premises as tenants in common, among others.

Statutory sections 15-43-301, 15-56-301, 15-73-401, 18-60-101, 18-60-206, 26-35-303 and 26-37-307 amended 1947; § 18-60-102 amended 1957; § 18-11-105 enacted 1991; § 18-60-401 amended 2015; §§ 18-60-1002, 18-60-1003, 18-60-1006, 18-60-1007, and 18-60-1008 enacted 2015.

Ark. Code §§ 15-43-301, -56-301(a), -73-401; 18-11-105; 18-60-101, -102, -206, -401, -1002, -1003, -1006, -1007, -1008; 26-35-303, -37-307 (LexisNexis 2018)

[Arkansas, TIC Sale or Transfer](#)

GENERAL SALE AND TRANSFER PROVISIONS

No general provisions were located. However, multiple grantees under a beneficiary deed may be tenants in common or may hold in any other tenancy that is valid under Arkansas law.

OTHER RELEVANT PROVISIONS

No other specifically relevant provisions were located.

Statutory section § 18-12-603 amended 1947; § 18-12-608 amended 2007.

Ark. Code §§ 18-12-603, -608(a)(2)(B) (LexisNexis 2018)

California

California, Nonsecuritized TICs

CREATING A TIC

California law appears to presume the creation of a TIC. A joint tenancy is created when “expressly declared in the transfer to be a joint tenancy, or when granted or devised to executors or trustees as joint tenants.”

Also, historically, if a married woman and any other person acquired property before January 1, 1975, it is presumed that the married woman took her part as a tenant in common, unless the instrument expresses a different intention.

OTHER RELEVANT PROVISIONS

Partnership formation

A TIC, by itself, does not establish a partnership, even if the co-owners share profits made by using the property.

Unincorporated association formation

A TIC, by itself, does not establish an unincorporated association, even if the co-owners share the property's ownership for a common purpose.

Statutory section § 16202 enacted 1996; § 803 enacted 1992; § 18035 enacted 2004; § 683 amended 2016.

[Cal. Civ. Code § 683](#); [Corp. Code §§ 16202\(c\)\(1\), 18035\(b\)](#); [Fam. Code § 803 \(2018\)](#)

California, State TIC Securities

RELEVANT STATE SECURITIES LAWS

No specifically relevant provisions were located.

NO REGISTRATION IN BENEFICIARY FORM

Individuals whose security registration shows multiple ownership as tenants in common may not obtain registration in beneficiary form. Multiple owners of a security registered in beneficiary form hold as joint tenants, tenants by the entirety, or owners of community property held in survivorship form, not as tenants in common.

Statutory section enacted 1998.

[Cal. Prob. Code § 5502 \(2018\)](#)

California, TIC Ownership

TIC OWNERSHIP LIMITATIONS

Action for waste

If a tenant in common or other co-owner of real property commits waste, an aggrieved person may bring an action and receive a judgment for treble damages.

TIC OWNERSHIP RIGHTS

Action for partition or sale

Generally, any owner of an "estate of inheritance, an estate for life, or an estate for years" in real property owned by several persons may bring a partition action.

OTHER INCIDENTS OF OWNERSHIP

Creditors' rights at execution sales

If a dwelling is owned by a judgment debtor as a joint tenant or a tenant in common,

- at an execution sale of a dwelling, the debtor's interest, not the dwelling, is sold; and
- if there is more than one judgment debtor of that creditor, the debtors' interests will be sold together and each of the judgment debtors entitled to a homestead exemption may apply that exemption to his or her own interest.

In this context, "dwelling" or "homestead" refer to the judgment debtor's interest in the dwelling or homestead.

Cessation notices

An owner or his or her agent must sign any notice of cessation. In this context, "owner" means the owner who causes a "building, improvement, or structure, to be constructed, altered, or repaired." Also, an owner who records a notice of cessation must also give a copy of the notice to specified persons. In both of these contexts, if the interest or estate is held by two or more persons as joint tenants or tenants in common, any one or more of the cotenants may be deemed the "owner."

Notice of completion of work

An owner may record a notice of completion of any "work of improvement." In that context, if the interest or estate is held by two or more persons as joint tenants or tenants in common, any one or more of the cotenants may be deemed the "owner."

Special assessments

Pursuant to the Special Assessment Investigation, Limitation and Majority Protest Act of 1931, all owners of more than 60 percent of the area of property subject to assessment for certain proposed improvements must sign a written petition. In this context, if a person signing the petition is a joint tenant or a tenant in common, that property will be counted as if all those persons had signed the petition.

Road-grade change protests

For property held in a TIC, if one cotenant signs a protest of road-grade changes, only the proportionate share of the frontage represented by that person's interest is counted in determining the frontage amount represented by the protest.

Forest resources improvement agreements or loans

To be eligible to participate in a forest resources improvement agreement or loan, the landowner must be "a person owning forest land." If the land is owned jointly, as a TIC or otherwise, the joint owners are considered to be one eligible landowner.

Municipal improvement elections

Pursuant to California statutes related to municipal improvement elections, if the landowner is a TIC, any of the tenants in common may cast the vote to which the landowner is entitled, but only one vote may be cast on behalf of the landowner.

Senior-citizens' property tax assistance

In the context of the "Senior Citizens Homeowners and Renters Property Tax Assistance Law," one or more tenants in common may own the property in question. When multiple persons own a residential dwelling as tenants in common and one or more of the tenants is not a member of the claimant's household, the term "property tax," includes only that part of the taxes that reflects the ownership of the claimant and other household members.

Senior- and disabled-citizens property tax postponements

As used to determine ownership interests for senior- and disabled-citizens property tax postponements, "owned" includes, among others, the interest of a tenant in common in the residential dwelling, if title is held in a TIC.

Various water district acts

In the context of certain water-board elections, if a parcel is held as a TIC, each tenant is presumed to have the authority to cast all votes for the parcel, upon filing a certificate identifying the tenants in common for whom the votes are to be cast.

In the context of numerous irrigation district laws (including those pertaining to Jackson Valley, Camp Far West, Montague, Cordua, Provident, Big Springs, Princeton-Codora-Glenn, Glenn Colusa, Richvale, James, Corcoran, Pleasant Valley, and Sierra Lakes County), if land is owned in a TIC or other multiple ownership form, the owners must designate in writing which owner is deemed to be the land owner for purposes of qualifying as a voter.

Lake County Watershed Protection District protests

In the context of the Watershed Protection District protests, if real property is owned in common, only one of the owners may sign the protest for all co-owners, if the party claiming the right to protest for all has his or her co-owners' written consent. A tenant in common may sign and be

counted independently for the "proportionate share of the assessed valuation of that real property as shall be determined by division of the evaluation by the number of jointly interested owners of the real property."

Water standby or availability charge

If a person signing a protest as a landowner is a tenant in common, that person's signature is counted as if all owners had signed.

Water agency elections

In the context of North and South Delta Water agency election, if a parcel is held as a TIC, any tenant in common is presumed to have the authority to cast the parcel's votes.

Stanislaus County Flood Control

As determined pursuant to the Stanislaus County Flood Control Enabling Act, the area of land held in a TIC is determined in proportion to the petitioner's interest.

Spousal rights

When dividing property upon marriage dissolution or legal separation, property acquired by the parties during marriage in joint form, including property held in a TIC, is presumed to be community property. The presumption may be rebutted by a clear statement in the deed or proof that the parties have agreed in writing that it is separate property. In a proceeding to divide the community estate, the court may divide the parties' separate property interests held as tenants in common. That property must be divided "together with, and in accordance with the same procedure for and limitations on, division of community estate."

Transfer of uninhabited territory

When considering protests made by owners of property in uninhabited territory that is proposed to be transferred, the commission must determine the value "for protest purposes" of the property interest the protestor holds in a TIC.

Sanitary improvement districts

In sanitary improvement district matters, if taxable property is owned in a TIC, the first owner who signs the written protest commits all of the property to the protest.

Southern California Rapid Transit District voting

If land in the Southern California Rapid Transit District is owned in a TIC, the owners must designate in writing which owner is deemed to be the "owner" for voting purposes.

Santa Clara Valley Transportation Authority assessment ballots

If a parcel in the Santa Clara Valley Transportation Authority district is owned in a TIC, the owners may designate in writing which owner is deemed to be the owner for assessment-ballot purposes.

Tax rate limit elections

In tax-rate limit elections, each landowner has one vote under certain circumstances. If the landowner is a TIC, any tenant may cast the vote, but only one vote may be cast on behalf of the landowner.

Property tax relief

Property tax relief available to persons over the age of 55 or severely and permanently disabled persons is available to a claimant who is the co-owner of the original property as a tenant in common if certain specified limitations are met.

Property tax equalization (Regulation 462.020)

Generally, for property tax equalization purposes, the creation, transfer, or termination of a TIC is considered to be a "change in ownership" of the transferred interest.

Timberland Environmental Impact Report for Carbon Sequestration and Fuel Reduction Program (§ 4598.6)

To be eligible for participation in an agreement or grant pursuant to Pub. Res. Code § 4598.5, if the timberland is owned jointly by more than one individual or entity, as joint tenants, tenants in common, tenants by the entirety, or otherwise, the joint owners are considered to be one landowner.

Public Transit Benefit Assessment Districts (Pub. Util. Code § 99005)

If a parcel in the benefit district is owned in joint tenancy, tenancy in common, or another multiple ownership, the owners may designate in writing which one party is deemed the parcel's owner for purposes of submitting an assessment ballot pursuant to Cal. Gov't Code § 53753.

Common Interest Development Ownership

A tort claim against any owner of a separate interest arising solely by reason of an ownership interest as a tenant in common in the common area of a common interest development shall be brought only against the association and not against the individual owners of the separate interests, if both of the following insurance requirements are met:

- (1) The association maintained and has in effect for this cause of action, one or more policies of insurance that include coverage for general liability of the association.
- (2) The coverage is (A) at least two million dollars (\$2,000,000) if the common interest development consists of 100 or fewer separate interests; or (B) at least three million dollars (\$3,000,000) if the common interest development consists of more than 100 separate interests.

Statutory section 8049 enacted 1941; § 6550.7 enacted 1968; § 23254 enacted 1974; § 872.210 enacted 1976; § 20511 enacted 1977; §§ 2285 and 30700.5 amended 1977; § 4797 enacted 1978; § 65-3.16 enacted 1979; §§ 732, 20527.5, 20527.7, and 20527.9 amended 1979; § 115-2 amended 1980; § 120-123 amended 1981; § 20527.8 amended 1981; § 704.820 enacted 1982; §§ 20508 and 65-27.6 amended 1983; §§ 33002.4 and 50704.5 enacted 1983; §§ 20527.91 and 116-2.2 amended 1987; §§ 20527.6 and 30700.6 amended 1990; § 2650 enacted 1992; § 2581 enacted 1993; §§ 10121 and 20527.10 amended 1994; § 20527.12 enacted 2000; § 20527.13 amended 2001; § 20527.11 and 62-12 amended 2006; § 69.5 amended 2011; §§ 8180, 8188, and 8190 amended and recodified 2010; § 99005 enacted 2013; § 6840 enacted 2013; §§ 20583 amended 2016; § 100602.4 amended 2014; § 4598.6 amended 2015; § 2804 amended 2016. Regulation 462.020 amended 2013.

[Cal Civ. Code §§ 6840, 8180, 8188, 8190](#); [Civ. Proc. Code §§ 704.820, 732](#); [Fam. Code §§ 803, 2581, 2650](#); [Gov't Code § 23254](#); [Health & Safety Code § 6550.7](#); [Pub. Res. Code §§ 4797, 4598.6](#); [Pub. Util. Code §§ 33002.4\(a\), 99005, 100602.4\(a\)](#); [Rev. & Tax Code §§ 69.5, 2285, 20508, 20511, 20583](#); [Sts. & High. Code §§ 2804, 8049, 10121\(b\)](#); [Water Code §§ 20527.5, .6, .7, .8, .9, .91, .10, .11, .12, .13](#); [30700.5, .6](#); [50704.5](#); Water Code App. §§ 62-12, 65-3.16, 65-27.6, 115-2, 116-2.2, 120-123 (2018); Cal. Code Regs. tit. 18, § 462.020 (2018)

California, TIC Sale or Transfer

GENERAL SALE AND TRANSFER PROVISIONS

No specifically applicable provisions were located.

OTHER RELEVANT PROVISIONS

Real estate transfer tax

For transfer tax purposes, unless otherwise provided, an ownership change includes, among others, creating, transferring or terminating any TIC interest. However, an ownership change generally does not include the following, among others:

- a transfer between co-owners that changes the method of holding title to the transferred property without changing the co-owners' proportional interests in the property, such as in the partition of a TIC; and
- transfers on or after January 1, 1989, of a mobile-home park to "a nonprofit corporation, stock cooperative corporation, tenant-in-common ownership group, or any other entity," provided certain specified requirements are met.

Also, for transfers that occur on or after January 1, 2013, an ownership change does not include a transfer of a cotenancy interest in real property from one cotenant to the other that takes effect upon the transferor cotenant's death, if all of the following apply:

- the transfer is "solely by and between two individuals who together own 100 percent of the real property in joint tenancy or as tenants in common";
- as a result of the cotenant's death, the deceased cotenant's interest in the real property is transferred to the surviving cotenant, resulting in the surviving cotenant holding a 100-percent ownership interest in the real property immediately after the transfer;
- for the one year immediately preceding the transfer, the real property was coowned by the transferor and the transferee, and both cotenants have been the property's record owners;
- the real property was both cotenants' principal residence immediately before the transferor cotenant's death;
- both cotenants continuously resided at the residence for the one-year period immediately before the transfer; and

- the transferee has signed, under penalty of perjury, an affidavit affirming that "he or she continuously resided with the transferor at the residence for the one-year period immediately preceding the transfer."

Manufactured home transfers

A manufactured home, mobile home, commercial coach, truck camper, or floating home may be registered in the names of multiple persons as tenants in common. If the names of the tenants in common are separated by the word "and," each tenant in common may transfer his or her interest without the other tenant's or tenants' signatures. However, each tenant in common's signature is required to transfer full interest to a new registered owner.

If the tenants' names are separated by the word "or," any one tenant may transfer full interest in the title without the other tenants' signatures.

Mobile home park sales

A mobile-home park owner who enters into a written listing agreement or offers to sell the park must provide written notice to specified individuals regarding his or her intention to sell. This requirement does not apply to, among other things, a sale or transfer between or among tenants in common that own the mobile-home park.

Transfer of floating home marina

A floating-home marina owner who enters into a written listing agreement or offers to sell the marina must provide written notice to specified parties regarding his or her intention to sell. This requirement does not apply to a sale or transfer between or among tenants in common that own a floating-home marina.

Section 798.80 amended 1994; § 62.2 amended 2002; § 800.100 amended 2004; § 50704.5 added 1983; § 61 amended 2010; § 62.3 enacted 2012; § 62 amended 2014; § 18080 amended 2016.

[Cal. Civil Code §§ 732, 798.80, 800.100; Health & Safety Code § 18080; Rev. & Tax Code §§ 61, 62, 62.2, 62.3; Water Code § 50704.5 \(2018\)](#)

Colorado

Colorado, Nonsecuritized TICs

CREATING A TIC

A real property conveyance or devise to two or more persons that does not create or is not presumed to create a joint tenancy is a conveyance or devise in tenancy in common.

Generally, a joint tenant may sever a joint tenancy between himself or herself and all remaining joint tenants by unilaterally executing and recording an instrument conveying his or her interest to himself or herself as a tenant in common.

OTHER RELEVANT PROVISIONS

Title registration

Tenants in common must join in any application to register the title of any estate or land interest.

The county can issue tenants in common either one owner's duplicate certificate for the entirety or a separate duplicate owner's certificate to each owner for his or her undivided share.

On and after August 9, 2017, and before January 1, 2020, property owners must register in accordance with section 38–36–204. Registration must include the name of each owner of the registered land that is listed on the certificate of title.

Partnership formation

A tenancy in common does not by itself establish a partnership, even if the co-owners "share profits made by the use of the property."

Nonprofit associations

A joint tenancy or tenancy in common does not by itself establish a nonprofit association, even if the co-owners "share use of the property for a nonprofit purpose."

Statutory section 7-60-107 amended 2004; § 7-64-202 enacted 1997; § 38-36-141 amended 1963; § 38-31-101 amended 2008; § 7-30-101 amended 2013; § 38-36-101 amended 2017; § 38-36-204 enacted 2017.

Colo. Rev. Stat. §§ 7-30-101(2), -60-107(1)(b), -64-202(3); 38-31-101(4); 38-36-101, -141, -204 (2018)

Colorado, State TIC Securities

RELEVANT STATE SECURITIES LAWS

No specifically relevant provisions were located.

However, Colorado securities laws provide that when used with reference to "fractional undivided interests in oil, gas, or other mineral rights," "issuer" means the owner of a right or interest in the right who "creates fractional interests therein for the purpose of offering them for sale."

NO REGISTRATION IN BENEFICIARY FORM

A registration of a security that shows ownership by tenants in common may not obtain a registration in beneficiary form. Multiple owners of a security registered in beneficiary form may not hold as tenants in common.

Statutory section 15-15-302 enacted 1990; § 11-51-201 amended 2015.

Colo. Rev. Stat. §§ 11-51-201; 15-15-302 (LexisNexis 2018)

Colorado, TIC Ownership

TIC OWNERSHIP LIMITATIONS

No relevant provisions were located.

TIC OWNERSHIP RIGHTS

Action for partition or sale

Any person with an interest in property may maintain an action to divide and partition the property.

Mines owned by tenants in common

If two or more persons own a mine, they are considered tenants in common. Each tenant in common has the right "to enter upon, occupy, prospect, develop, and work" the mine without any nonworking tenant in common's consent, subject to an accounting to the nonworking tenant in common for his proportionate share of the net profits of the mining operations. In an accounting action between tenants in common, the working tenant may establish his or her expenditures and expenses as a setoff against the operation's proceeds and profits, without being required to show that the improvements were necessary or enhanced the property's value. However, if one tenant in common begins work without the other co-owners' consent, he or she must give a written notice to the other tenants in common stating his or her intention. Any tenant receiving the notice may join in the mining operation to the extent of his or her proportionate interest in the mine, upon giving the working tenant written notice and paying a specified proportionate share of the expenditures and expenses.

A tenant in common of a mine may lease his or her interest, and the lessee is entitled to all the rights, benefits, and remedies, and subject to all the duties and obligations, of a working tenant.

OTHER INCIDENTS OF OWNERSHIP

Status as marital property

Subject to certain specified exceptions related to gifts, wills, trusts, and the like, all property acquired by either spouse after a marriage and before a legal separation decree is presumed to be marital property, regardless of whether title is held individually or by the spouses in joint tenancy, tenancy in common, tenancy by the entirety, or as community property.

Gross Conservation Easement Credits

A tenancy in common that makes a donation that generates a gross conservation easement credit must allocate the credit to the entity's owners "in proportion to their distributive shares of income or ownership percentage." Nonresident owners included in a joint tenancy, tenancy in common, and similar ownership arrangements may not claim the credit. The total credit generated by the donation of a perpetual conservation easement in gross by tenants in common and similar ownership groups is limited to:

- \$375,000 (50 percent of the first \$750,000) for donations made on or after January 1, 2007, but before January 1, 2015; and
- \$1,500,000 (75 percent of the first \$100,000 plus 50 percent of the next \$2,850,000) for donations made on or after January 1, 2015.

Wildfire mitigation measures deduction

In the case of real property owned as tenants in common, the state's income tax deduction for certain landowners' costs incurred in performing wildfire mitigation measures is allowed to only one of the individuals in the ownership group.

Statutory section 14-10-113 amended 2004; §§ 34-44-103, 34-44-107, 34-44-108, and 34-44-110 amended 1963; § 38-28-101 amended 1963; § 39-22-104 amended 2017. Regulation amended 2018.

Colo. Rev. Stat. §§ 14-10-113(3), (7); 34-44-103, -107, -108, -110; 38-28-101; 39-22-104 (LexisNexis 2018); [1 Colo. Code Regs. 201-2 § 39-22-522 \(2018\)](#)

Colorado, TIC Sale or Transfer

No specifically relevant provisions were located.

Connecticut

Connecticut, Nonsecuritized TICs

CREATING A TIC

A conveyance to more than one party creates an estate or interest as tenants in common unless the words "as joint tenants" are added after their names.

OTHER RELEVANT PROVISIONS

Partnership formation

A TIC does not by itself create a partnership, even if the co-owners share profits made by using the property.

Statutory section 47-36a amended 2000; § 34-314 enacted 1995.

[Conn. Gen. Stat. §§ 47-36a\(b\)\(2\); 34-314\(c\)\(1\) \(2017\)](#)

Connecticut, State TIC Securities

RELEVANT STATE SECURITIES LAWS

No specifically relevant provisions were located.

However, Connecticut securities laws define "security" to include, among others, "fractional undivided interests" in oil, gas or other mineral rights. In that context, "issuer" includes any owner of "an interest in the lease or in payments out of production under a lease, right or royalty . . . who creates fractional interests" for sale purposes.

Also, see [§§ 20-329o](#) through [-329bb](#) for provisions that generally apply to "real property securities dealers," who are persons that deal in

- certain investment contracts made in connection with the sale of a single promissory note secured by real property or a single real property sales contract in which the dealer or his principal agrees to act as specified to guarantee the note, contract, or payments;
- "one of a series of promotional notes secured by liens on separate parcels of real property in one subdivision or in contiguous subdivisions"; or
- "one of a series of real property sales contracts pertaining to separate parcels of real property in one subdivision or in contiguous subdivisions, all of which are executed by one person or persons associated together as owners."

NO REGISTRATION IN BENEFICIARY FORM

Individuals whose security registration shows ownership by two or more individuals as tenants in common may not obtain registration in beneficiary form. Multiple owners of a security registered in beneficiary form hold as joint tenants, tenants by the entireties, or owners of community property held in survivorship form, not as tenants in common.

Statutory section 45a-468b enacted 1997; § 36b-3 amended 2016.

[Conn. Gen. Stat. §§ 36b-3; 45a-468b \(2017\)](#)

Connecticut, TIC Ownership

TIC OWNERSHIP LIMITATIONS

Action by one tenant in common for waste

Any tenant in common of land may maintain an action in his or her own name for "any injury thereto." However, the defendant may show the other tenants' failure to join in order to reduce damages, and the plaintiff will recover only for the damages to his or her interest.

TIC OWNERSHIP RIGHTS

Action for partition or sale

Courts may, upon an interested person's complaint, order partition of any real property held in a TIC. The court may appoint a committee to partition the property.

If a deceased tenant in common has devised a freehold interest to any person, with a contingent interest to any other person, a court may, upon an interested person's complaint, partition the property.

Uniform Partition of Heirs Property Act

Connecticut's Uniform Partition of Heirs' Property Act applies to partition actions filed on or after October 1, 2015. Pursuant to that act, in an action to partition real property, the court must determine whether the property is heirs' property. If the court determines that the property is heirs' property, the property must be partitioned under §§ 52-503f to 52-503r, unless all of the cotenants agree otherwise in a record.

In the context of Connecticut's Uniform Partition of Heirs' Property Act, the term "heirs' property" means real property held in tenancy in common that satisfies all of the following requirements:

- there is no agreement in a record binding all the cotenants that governs the property's partition;
- one or more of the cotenants acquired title from a relative; and
- either (i) 20 percent or more of the interests are held by cotenants who are relatives; (ii) 20 percent or more of the interests are held by an individual who acquired title from a relative; or (iii) 20 percent or more of the cotenants are relatives.

Action against a cotenant

If two or more persons hold property as tenants in common and one of them "occupies, receives, uses or takes benefit of the property in greater proportion than the amount of his interest in the property," any other party may bring an action against such person and recover the sum or value that exceeds that person's share.

OTHER INCIDENTS OF OWNERSHIP

Special district designations

In ballots regarding historic district designations, a tenant in common has a vote equal to the fraction of his or her ownership. Similarly, in a referendum regarding an ordinance establishing special services districts, a tenant in common of any freehold interest in real property has a vote equal to the fraction of his or her ownership in the interest.

Similarly, for purposes of voting at meetings held by the Transportation Center Improvement District of the City of Stamford, any tenant in common of any interest in real property has a vote equal to the fraction of such tenant in common's ownership of such interest.

Statutory section 7-147b(g) amended 2011; § 7-339p amended 1988; § 52-77 enacted 1949; §§ 52-404, 52-495, and 52-496 amended 1982; §§ 52-203g and 52-503h enacted 2015.

[Conn. Gen. Stat. §§ 7-147b\(g\), -339p\(a\); 52-77, -404, -495, -496, -503g, -503h \(2017\); 2018 Conn. Laws Spec. Act No. 18-9, §1\(d\)](#)

Connecticut, TIC Sale or Transfer

No specifically relevant provisions were located.

Delaware

Delaware, Nonsecuritized TICs

CREATING A TIC

Except for transfers to executors or trustees, a joint tenancy exists only if the premises are expressly granted, devised or conveyed to persons as joint tenants and not as tenants in common. Thus, presumably, if not expressly so stated, the transfer is as tenants in common.

OTHER RELEVANT PROVISIONS

Formation of Non-Profit Association

Tenancy in common does not by itself establish a nonprofit association, even if the co-owners share use of the property for a nonprofit purpose.

Partnership Formation

Tenancy in common does not by itself establish a partnership, even if the co-owners share profits made by the use of the property.

Statutory section 701 amended 1953; § 15-202 amended 2015; § 1901 amended 2002.

[Del. Code tit. 25, § 701; tit. 6, § 1901; tit. 6, § 15-202 \(2018\)](#)

Delaware, State TIC Securities

RELEVANT STATE SECURITIES LAWS

No specifically relevant provisions were located.

NO REGISTRATION IN BENEFICIARY FORM

Only individuals whose registration of a security with multiple ownership shows ownership with right of survivorship, not as tenants in common, may obtain registration in beneficiary form. Multiple owners of a security registered in beneficiary form hold as joint tenants, as tenants by the entirety or as owners of community property, not as tenants in common.

Statutory section enacted 1996.

[Del. Code tit. 12, § 802 \(2018\)](#)

Delaware, TIC Ownership

TIC OWNERSHIP LIMITATIONS

Action for waste

A tenant in common committing waste of the estate is liable to his or her cotenants.

TIC OWNERSHIP RIGHTS

Action by one tenant in common

A tenant in common may maintain an action for use and occupation against his or her cotenant.

Action for partition or sale

A tenant in common may petition the court for a partitioning. Upon the petition of all of the tenants in common, the court must enter a partition decree and may order a commission for making the partition.

OTHER INCIDENTS OF OWNERSHIP

Special districts

If owners of land within a parking benefit district are tenants in common, the district considers each cotenant a landowner to the extent of the cotenant's undivided interest in the land.

Municipal taxation exemptions

If the title to property on which a municipal taxation exemption is claimed is held by multiple parties as tenants in common, each tenant is allowed an exemption against its interest that does not exceed the assessed value of the tenant's proportionate share. The proportionate share is deemed to be equal to that of each of the other tenants unless the parties show that the interests are not equal, in which case each tenant's proportionate share is as shown. One tenant may claim exemption against the property, but no more than the equivalent of one full exemption with respect to the property is permitted in any year. If the tenants cannot agree on the exemption's apportionment, it is apportioned between or among them in proportion to their interests.

Tax lagoons

Each landowner at a tax-lagoon meeting is entitled to the number of votes equal to the number of dollars assessed against the owner's land in the lagoon order. If tenants in common hold the land, each tenant is entitled to the number of votes equal to that tenant's fractional share of the total amount assessed against the land. The tax ditch laws similarly permit each tenant in common to have the number of votes that equals his or her fractional share of the total number of dollars assessed against the land.

School tax credits

If the title to property on which a school tax credit is held by a claimant and others as tenants in common, the claimant is allowed a credit against his interest that does not exceed the assessed value of his proportionate share in the property. That share is deemed to be equal to that of each of the other tenants unless the parties show that the interests are not equal, in which case the claimant's proportionate is as shown.

Real estate owned by a person with a disability

The guardian of the property of a person with a disability who wishes to sell real estate owned by the person with a disability must apply to the Court of Chancery for authority to sell the property. For these purposes, "real estate" includes any ownership interest in real estate, including, among others, real estate held as a tenant in common.

Statutory sections 4154 and 1004 amended 1996; §§ 702, 721, 728, and 904 amended 1995; § 4343 amended 2002; § 1917 amended 2017; § 3951 amended 2015; § 504 amended 2016.

[Del. Code tit. 7, §§ 4154, 4343; tit. 12, § 3951; tit. 14, § 1917\(c\)\(4\); tit. 22, §§ 504\(d\)\(2\), 1004; tit. 25, §§ 702, 721, 728, 904 \(2018\)](#)

Delaware, TIC Sale or Transfer

No specifically relevant provisions were located.

District of Columbia

District Of Columbia, Nonsecuritized TICs

CREATING A TIC

An estate granted or devised to multiple persons, including to spouses or domestic partners, is a TIC, unless expressly declared to be a joint tenancy. However, an estate vested in executors or trustees is deemed to be a joint tenancy, unless otherwise expressed.

OTHER RELEVANT PROVISIONS

Partnership formation

A TIC, by itself, does not establish a partnership, even if the co-owners share profits made by using the property.

Nonprofit association formation

A TIC, by itself, does not establish a nonprofit association or an unincorporated nonprofit association, even if the co-owners share the property's use for a nonprofit purpose.

Statutory section 29-602.02 (formerly § 33-102.02) amended and renumbered 2011; § 42-516 amended 2008; § 29-1102 enacted 2011.

[D.C. Code §§ 29-602.02, -1102; 42-516\(a\) \(2018\)](#)

District Of Columbia, State TIC Securities

RELEVANT STATE SECURITIES LAWS

No specifically relevant provisions were located.

However, D.C. securities laws define "security" to include a "fractional undivided interest in an oil, gas, or other mineral lease or in payments out of production under a lease, right, or royalty."

NO REGISTRATION IN BENEFICIARY FORM

Individuals whose security registration shows multiple ownership as tenants in common may not obtain registration in beneficiary form. Multiple owners of a security registered in beneficiary form hold as joint tenants, tenants by the entirety, or owners of community property held in survivorship form, not as tenants in common.

Statutory section 19-603.02 enacted 2001; § 31-5601.01 amended 2004.

[D.C. Code §§ 19-603.02, 31-5601.01 \(2018\)](#)

District Of Columbia, TIC Ownership

TIC OWNERSHIP LIMITATIONS

Actions against a cotenant for waste

A joint tenant or tenant in common

- may maintain an action for waste committed by his cotenant; or
- in a partition suit or sale for partition purposes, may have the waste charged against the share of the cotenant committing the waste.

TIC OWNERSHIP RIGHTS

Actions for partition or sale

The D.C. Superior Court may order a partition on the complaint of a tenant in common claiming by descent or purchase. If the property cannot be divided without loss or injury to the interested parties, the court may order a sale of the property and a division of the proceeds among the parties according to their rights.

Upon partition, if a tenant in common has received the property's rents and profits, he may be required to account to his cotenants for their shares. The court may charge amounts found to be due "against the share of the party owing them in the property, or its proceeds in case of sale."

Ejectment actions

A party may bring an ejectment civil action against:

- the person occupying the premises;
- both the claimant and his tenant, or other occupant claiming under him; or
- if the premises are not occupied, a person exercising ownership acts that are adverse to the plaintiff.

Any person claiming to be in possession may be admitted to defend the action.

Although joint tenants must sue jointly in ejectment, tenants in common may sue either jointly or separately. Also, any number of tenants in common, less than all, may sue jointly in regards to their undivided interests.

Generally, in an ejectment action, the plaintiff must show that he is entitled, as against the defendant, to the immediate possession of the premises, and that the defendant:

- possesses the premises and is "holding adversely to the plaintiff"; or
- exercises ownership acts over the premises, "adversely to the plaintiff."

Also, in an action by one or more tenants in common against their cotenants, the plaintiff must prove

- an "actual ouster"; or
- another act that amounts to a denial of the plaintiff's title and his exclusion from the property.

Actions of account

One tenant in common may bring an action of account against the other tenant for receiving more than his or her just share.

OTHER INCIDENTS OF OWNERSHIP

No specifically relevant provisions were located.

Statutory section 42-1604 enacted 1901; §§ 16-101, 16-1101, and 16-1104 enacted 1963; § 16-2901 amended 1970.

[D.C. Code §§ 16-101, -1101, -1104, -2901; 42-1604 \(2018\)](#)

District Of Columbia, TIC Sale or Transfer

GENERAL SALE AND TRANSFER PROVISIONS

No generally applicable provisions were located.

However, a property interest held in a TIC (or otherwise co-owned) may be granted by one or more persons:

- to one of them alone as grantee; or
- as grantees in a TIC, joint tenancy, or tenancy by the entirety to the grantors alone, to two or more of the grantors, to the grantor and others, or to one or more of the grantors and others.

OTHER RELEVANT PROVISIONS

Deed taxes

If real property owners, for the sole purpose of changing their estate (for example, from a TIC to a joint tenancy), executed a deed to a "nominal grantee holding naked title," who, without consideration, executes a deed back to the same owners so as to effect an estate change, the deeds are exempt from the deed tax.

Statutory section amended 2008. Regulation 509 effective 1962; r. 609 adopted 1980.

[D.C. Code § 42-516\(b\) \(2018\)](#); [D.C. Mun. Regs. tit. 9. §§ 509.2, 609.2 \(2018\)](#)

Florida

Florida, Nonsecuritized TICs

CREATING A TIC

Except for estates by entirety, a devise, transfer or conveyance to two or more parties creates a tenancy in common, unless the instrument expressly provides for the right of survivorship.

OTHER RELEVANT PROVISIONS

Partnership formation

A tenancy in common does not, by itself, create a partnership, even if the coowners share profits made by using the property.

Statutory section 620.8202 enacted 1995; § 689.15 amended 1973.

[Fla. Stat. §§ 620.8202\(3\)\(a\); 689.15 \(2018\)](#)

Florida, State TIC Securities

RELEVANT STATE SECURITIES LAWS

No specifically relevant provisions were located.

NO REGISTRATION IN BENEFICIARY FORM

Individuals whose security registration shows multiple ownership as tenants in common may not obtain registration in beneficiary form. Multiple owners of a security registered in beneficiary form hold as joint tenants, tenants by the entireties, or community property owners, not as tenants in common.

Statutory section enacted 1994.

[Fla. Stat. § 711.502 \(2018\)](#)

Florida, TIC Ownership

TIC OWNERSHIP LIMITATIONS

No relevant provisions were located.

TIC OWNERSHIP RIGHTS

Action for partition or sale

Any one or more of several tenants in common may file a partition action against their cotenants or others interested in the lands to be divided.

Reestablishment of land titles

Tenants in common may join in an action by a person filing a complaint to establish and confirm his or her title to land for which county records were destroyed by fire.

OTHER INCIDENTS OF OWNERSHIP

Homestead exemption

A person who, on January 1, has the legal or beneficial title in equity to Florida real property and who in good faith makes the property his or her permanent residence (or the permanent residence of another "legally or naturally dependent upon him or her") is entitled to a homestead exemption. Title may be held by the entireties, jointly, or in common with others. The parties may apportion the exemption among the owners who reside on the property, "as their respective interests appear."

Statutory section 64.031 amended 1967; § 71.041 amended 1995; § 196.031 amended 2017.

[Fla. Stat. §§ 64.031; 71.041\(2\); 196.031 \(2018\)](#)

Florida, TIC Sale or Transfer

GENERAL SALE AND TRANSFER PROVISIONS

No relevant provisions were located.

OTHER RELVANT PROVISIONS

Mobile home park sales

Section 723.071, which requires certain notifications and options if owners of a mobile home park offer the park for sale, does not apply to a sale or transfer between or among tenants in common owning a mobile home park.

Recreational leaseholds

Section 720.31, which requires certain options if a leased recreational facility serving a homeowners' association community is offered for sale, does not apply to a sale or transfer between or among the tenants in common that own the facilities.

Statutory section 720.31 amended 2010; § 723.071 amended 1997.

[Fla. Stat. §§ 720.31\(4\)\(g\); 723.071\(4\)\(g\) \(2018\)](#)

Georgia

Georgia, Nonsecuritized TICs

CREATING A TIC

Unless otherwise specifically provided by statute and by the relevant document or instrument, a tenancy in common is created if two or more persons are entitled to the simultaneous possession of property. Tenants in common may have unequal shares, but they will be deemed to be equal "unless the contrary appears." However, inequality does not give the person with a greater interest any privileges regarding possession that are superior to those of the person with a lesser interest.

Title in favor of two or more persons creates interests in common without survivorship between or among the owners unless the instrument expressly describes the parties as "joint tenants" or as taking "jointly with survivorship."

OTHER RELEVANT PROVISIONS

No other relevant provisions were located.

Statutory section 44-6-120 amended 1980; § 44-6-190 amended 2015.

Ga. Code Ann. §§ 44-6-120, -190 (2018)

[Georgia, State TIC Securities](#)

RELEVANT STATE SECURITIES LAWS

No specifically relevant provisions were located.

However, "the issuer of a fractional undivided interest in an oil, gas, or other mineral lease or in payments out of production under a lease, right, or royalty is the owner of an interest in the lease or in payments out of production under a lease, right, or royalty, whether whole or fractional, that creates fractional interests for the purpose of sale."

NO REGISTRATION IN BENEFICIARY FORM

Individuals whose security registration shows multiple ownership as tenants in common may not obtain registration in beneficiary form. Multiple owners of a security registered in beneficiary form hold as joint tenants, tenants by the entireties, or owners of community property held in survivorship form, not as tenants in common.

Statutory section 53-5-62 amended 1999; § 10-5-2 amended 2017.

Ga. Code Ann. §§ 10-5-2; 53-5-62 (2018)

Georgia, TIC Ownership

TIC OWNERSHIP LIMITATIONS

Liability to cotenants

A tenant in common is liable to a cotenant's account if he or she:

- receives any rent or other profit from the property;
- commits waste;
- deprives a cotenant of "the use of his fair proportion" of the property;
- appropriates the property for his or her exclusive use; or
- uses the property "in a manner which must necessarily be exclusive."

If one tenant in common receives more than his or her share of the rents and profits, that tenant is liable for the amount as the other cotenant's agent or bailee. The cotenant's claim is superior to any liens held by third persons that the tenant in possession who received the unequal

share have placed on the cotenant's interest.

Freeing land from further registration

If fee simple title is registered to more than one person as tenants in common it will not be freed from registration except upon the owners' unanimous action.

TIC OWNERSHIP RIGHTS

Possession rights

Every tenant in common has the right to possess the property. As long as a tenant in common occupies no greater portion of the property than his share would be on partition and does not withdraw any of the property's "essential value" (such as mineral deposits), the tenant is not liable to account for rent to cotenants.

Uniform Partition of Heirs Property Act

Georgia's Uniform Partition of Heirs Property Act applies to partition actions filed on or after January 1, 2013. Pursuant to that act, in an action to partition real property, the court must determine whether the property is heirs property. If the court determines that the property is heirs property, the property must be partitioned pursuant to the state's Uniform Partition of Heirs Property Act, unless all of the cotenants agree otherwise.

In the context of Georgia's Uniform Partition of Heirs Property Act, the term "heirs property" means real property held in tenancy in common that satisfies all of the following requirements:

- there is no agreement in a record binding all the cotenants that governs the property's partition;

- one or more of the cotenants acquired title from a relative; and
- either (i) 20 percent or more of the interests are held by cotenants who are relatives; (ii) 20 percent or more of the interests are held by an individual who acquired title from a relative; or (iii) 20 percent or more of the cotenants are relatives.

Action by one tenant in common

A tenant in common may bring an action "separately for his own interest," in which case, the judgment affects only that tenant.

Also, a tenant in common may bring an ejectment action to recover property or an action for damages without joining any other person as plaintiff. In that case, the judgment does not affect the rights of those who are not parties to the action.

OTHER INCIDENTS OF OWNERSHIP

Conservation tax credits

When real property owners who are tenants in common make a qualified real property donation, the conservation tax credits are allocated to each owner based on that owner's ownership percentage of the donated real property.

Statutory sections 9-2-23, 44-6-121, 44-6-122, and 44-11-3 amended 1933; § 44-2-144 amended 1989; § 44-6-180 enacted 2012; § 44-6-181 amended 2013. Regulation amended 2016.

Ga. Code Ann. §§ 9-2-23; 44-2-144; 44-6-121, -122, -180, -181; 44-11-3 (2018); Ga. Comp. R. & Regs. 560-7-8-.50 (2018)

[Georgia, TIC Sale or Transfer](#)

GENERAL SALE AND TRANSFER PROVISIONS

No relevant provisions were located.

OTHER RELEVANT PROVISIONS

Real estate transfer tax

The real estate transfer tax imposed by § 48-6-1 does not apply to a deed, instrument, or other writing that divides real property among tenants in common, provided the transaction does not involve consideration other than the property division.

Withholding on sales or transfers of real property by nonresidents

With respect to withholding on real property sales or transfers by nonresidents, if multiple persons sell real property they own as tenants in common,

- the state will determine the tenants' respective residence status separately; and
- withholding is required only on "the amount realized or gain recognized by the nonresident co-owner(s)."

Partitioning

Special partitioning laws apply to "heirs property," which is property held in tenancy in common that satisfies other specified conditions.

Statutory section 44-6-180 enacted 2012; § 44-6-181 amended 2013; § 48-6-2 amended 2015.
Regulation amended 2002.

Ga. Code Ann. §§ 48-6-2(a)(10), 44-6-180, -181 (2018); Ga. Comp. R. & Regs. 560-7-8-.35 (2018)

Guam

Guam, Nonsecuritized TICs

CREATING A TIC

An interest created in favor of several persons is an interest in common, unless

- acquired in partnership for partnership purposes;
- declared to be a joint interest; or
- acquired as community property.

OTHER RELEVANT PROVISIONS

Partnership formation

A TIC, by itself, does not establish a partnership, even if the co-owners share profits made by using the property.

Statutory section 25202 enacted 1953; § 1218 history unknown.

[Guam Code tit. 18, § 25202; tit. 21, § 1218 \(2018\)](#)

Guam, State TIC Securities

RELEVANT STATE SECURITIES LAWS

No specifically relevant provisions were located.

NO REGISTRATION IN BENEFICIARY FORM

Individuals whose security registration shows multiple ownership as tenants in common may not obtain registration in beneficiary form. Multiple owners of a security registered in beneficiary form hold as joint tenants, tenants by the entirety, or owners of community property held in survivorship form, not as tenants in common.

Statutory section reenacted 1999.

[Guam Code tit. 15, § 853 \(2018\)](#)

Guam, TIC Ownership

TIC OWNERSHIP LIMITATIONS

Action for waste

If a tenant in common of real property commits waste, any aggrieved person may bring an action and may receive a judgment for treble damages.

Liability in construction lien context

In the context of contractor's, laborer's or materialman's liens, "owner," as used in the statutes regarding completion or cessation notices, means the owner that caused the building, improvement, or structure, to be constructed, altered, or repaired. If the interest or estate is held by multiple persons as tenants in common, any one or more of the co-tenants may be deemed to be the owner. Any completion or cessation notice signed by less than all co-owners must recite all of the co-owners' names and addresses.

TIC OWNERSHIP RIGHTS

Action for partition or sale

If several co-tenants own real property as tenants in common, and one or more has "an estate of inheritance, or for life or lives or for years," that person or persons may bring an action

- for a partition according to the interested persons' rights; and
- for a sale of all or part of the property, if a partition cannot be made "without great prejudice to the owners."

If the court finds it "impracticable or highly inconvenient" to make a complete partition among all interested parties at first, it may ascertain and determine the shares or interests held by the original co-tenants, and make a partition as if those original co-tenants were the only interested parties. Later, the court may similarly partition separately each share or portion allotted between those claiming under the original tenant, or it may allow them to remain tenants in common of their interests, as they desire.

If one or more of the tenants in common that own an undivided interest in land to be partitioned has sold a specific tract out of the common land and executed a deed purporting to convey the whole title to that specific tract, the court must allot that land to the purchaser so as to make the deed an effective conveyance of the whole title to the parcel, if the tract can be allotted or set apart without material injury to the other co-tenants who may not have joined in the conveyance.

Referees partitioning land must allot the share of each interested party and locate each co-tenant's share, "so as to embrace as far as practicable the improvements" that co-tenant made on the property. The referee must exclude the value of improvements made by the tenants in common from the valuation in making the allotments; he or she must value the land without regard to the improvements, "in case the same can be done without material injury to the rights and interests of the other tenants in common owning such land."

The parties entitled to share in the divided lands must pay, in proportion to their interests, partition costs, including reasonable counsel fees. The court may include those costs

in the judgment, in which case they are a lien on the shares. The judgment may be enforced by execution against those shares and against other property held by those parties. However, if litigation arises between only some of the parties, the court may require the litigation expenses to be paid by only those parties.

If any one of the tenants in common have "necessarily prosecuted or defended" an action to protect, confirm or perfect the title, set boundaries, or make a survey of the partitioned estate, the court must allow those parties who have paid the expenses, all expenses necessarily incurred, except counsel fees, that "accrued to the common benefit" of the other tenants in common, plus interest. The court must include those expenses in the final judgment, and they are a lien on each tenant's share in proportion to his or her interests.

Certificates of title

If multiple persons are entitled as tenants in common to an estate in registered land,

- the tenants may receive one certificate for the entirety; or
- each tenant may receive a separate certificate for his or her undivided share.

Actions to clear title

Persons claiming an estate or interest in land under a common title may bring an action against any person claiming an adverse interest in the property,

- to determine the adverse claim;
- to establish the "common source of title";

- to declare the title to be held in trust; or
- to remove a cloud from the title.

Actions to protect rights

All or less than all persons holding as tenants in common may "jointly or severally" bring or defend any civil action to enforce or protect the party's or the parties' rights.

OTHER INCIDENTS OF OWNERSHIP

Spousal rights

In determining community property, "separate property" includes, among other things, each spouse's undivided interest in property owned as co-tenants in a TIC.

A spouse's separate debt is satisfied as follows:

- first, from the debtor spouse's separate property, "excluding that spouse's interest in property in which each of the spouses owns an undivided equal interest as a joint tenant or tenant in common";
- then, from the debtor spouse's one-half interest in "community property or in which each spouse owns an undivided equal interest as a joint tenant or tenant in common," excluding the spouses' residence; and
- finally, from the debtor spouse's interest in the residence.

Neither spouse's interest in community property or separate property is liable for the other spouse's separate debt.

Community debts are satisfied as follows:

- first, from "all community property and all property in which the spouses own an undivided equal interest as joint tenants or tenants in common," excluding their residence;
- then, from the spouses' residence; and
- finally, from the separate property of the spouse who contracted or incurred the debt; however, if both spouses incurred the debt, both spouses' separate property is liable.

Mortgage or encumbrance by tenant in common

If a tenant in common has given a mortgage or otherwise granted a lien or interest on his undivided interest, and it is set off in partition proceedings, that mortgage, lien, or interest attaches only to set-off lands.

Homestead claims

A married claimant may select a homestead from property held by spouses as co-tenants in a TIC or joint tenancy or from the husband's or wife's separate property.

Statutory sections 12112, 12113, 24401, 24410, 24414, 24445, 24446, 23102, 29126, 29186, and 6101 enacted 1975; §§ 6103, 6104, and 43102 enacted 1979; § 33105 reenacted 2008.

[Guam Code tit. 7, §§ 12112, 12113, 24401, 24410, 24414, 24445, 24446, 33105; tit. 19, §§ 6101, 6103, 6104; tit. 21, §§ 23102, 29126, 29186, 43102 \(2018\)](#)

Guam, TIC Sale or Transfer

GENERAL SALE AND TRANSFER PROVISIONS

Community property

Both spouses must join in

- all transfers, conveyances or encumbrances of any community and separate real property interests owned by the spouses as co-tenants in joint tenancy or TIC; and
- all leases of community or separate real property owned by spouses as co-tenants in joint tenancy or TIC if the initial lease term, with any contemporaneous options or extensions, may exceed five years, or if the lease is for an indefinite term.

Any transfer, conveyance, encumbrance or lease in community or separate real property owned by spouses as co-tenants in joint tenancy or tenancy in common, that either spouse attempts to make alone is void. However, either spouse may transfer, convey, encumber or lease directly to the other spouse without the other spouse joining.

Recording judgments

All court orders authorizing the transfer, conveyance, encumbrance or lease of community real property or other real property owned by spouses as co-tenants in joint tenancy or TIC may be recorded.

OTHER RELEVANT PROVISIONS

No other relevant provisions were located.

Statutory sections enacted 1979.

[Guam Code tit. 19, §§ 6106, 6110 \(2018\)](#)

Hawaii

Hawaii, Nonsecuritized TICs

CREATING A TIC

All "grants, conveyances, and devises of land, or of any interest therein" made to multiple persons are deemed to create estates in common, unless it "manifestly appears" from the instrument's "tenor" that it was intended to create a joint tenancy or tenancy by the entirety. This provision does not apply to grants, conveyances, or devises to personal representatives or trustees.

OTHER RELEVANT PROVISIONS

Partnership formation

A TIC does not, by itself, establish a partnership, even if the co-owners share profits made by using the property.

Statutory section 425-109 enacted 1999; § 509-1 amended 1976.

[Haw. Rev. Stat. §§ 425-109\(c\)\(1\); 509-1 \(2017\)](#)

Hawaii, State TIC Securities

RELEVANT STATE SECURITIES LAWS

No specifically relevant provisions were located.

However, Hawaii securities laws define "security" to include, among other things, a "fractional undivided interest in oil, gas, or other mineral rights." Consequently, the issuer of "a fractional undivided interest in an oil, gas, or other mineral lease or in payments out of production under a lease, right, or royalty is the owner of an interest in the lease or in [the] payments . . . that creates fractional interests" for sale purposes.

NO REGISTRATION IN BENEFICIARY FORM

Only individuals whose security registration shows multiple ownership with survivorship rights, rather than as tenants in common, may obtain registration in beneficiary form. Multiple owners of a security registered in beneficiary form hold as joint tenants, tenants by the entireties, or owners of community property, not as tenants in common.

Statutory section 539-2 enacted 1998; § 485A-102 amended 2013.

[Haw. Rev. Stat. §§ 485A-102; 539-2 \(2017\)](#)

Hawaii, TIC Ownership

TIC OWNERSHIP LIMITATIONS

No relevant provisions were located.

TIC OWNERSHIP RIGHTS

Action for partition or sale

If multiple parties hold or possess real property as joint tenants or tenants in common, and at least one party has an estate in fee or a life estate in possession, any one or more tenants may bring an action:

- for a partition of the property according to the interested parties' rights; and
- for a sale if a partition would greatly prejudice the owners.

Uniform Partition of Heirs Property Act

Hawaii's Uniform Partition of Heirs Property Act will apply to partition actions filed on or after January 1, 2017. Pursuant to that act, in an action to partition real property, the court must determine whether the property is heirs property. If the court determines that the property is heirs property, the property must be partitioned under the Uniform Partition of Heirs Property Act, unless all of the cotenants agree otherwise in a record.

In the context of Hawaii's Uniform Partition of Heirs Property Act, the term "heirs property" means real property held in tenancy in common that satisfies all of the following requirements:

- there is no agreement in a record binding all the cotenants that governs the property's partition;
- one or more of the cotenants acquired title from a relative; and
- either (i) 20 percent or more of the interests are held by cotenants who are relatives; (ii) 20 percent or more of the interests are held by an individual who acquired title from a relative; or (iii) 20 percent or more of the cotenants are relatives.

OTHER INCIDENTS OF OWNERSHIP

Home property tax exemption

Chapter 246 of Hawaii Revised Statutes, which previously addressed home property tax exemptions when multiple parties in common owned or leased land on which their homes are located, was repealed effective July 1, 2016.

Property tax bills

Chapter 246 of Hawaii Revised Statutes, which previously provided that property tax bills demanding the full amount due for real property owned by tenants in common were to be sent to each known co-owner, was repealed effective July 1, 2016.

Statutory sections 246-26 and 246-47 repealed 2016; § 668-1 amended 2016; new sections enacting the Uniform Partition of Heirs Property Act enacted 2016.

[Haw. Rev. Stat. § 668-1 \(2017\); 2016 Haw. Sess. Laws ch. 260, §§ 2, 3](#) (enacting the Uniform Partition of Heirs Property Act)

Hawaii, TIC Sale or Transfer

GENERAL SALE AND TRANSFER PROVISIONS

No other relevant provisions were located.

OTHER RELEVANT PROVISIONS

Tenants in common may convey property or property interests to themselves or to themselves and others as joint tenants without needing to convey through a third party.

See Haw. Rev. Stat. § 509-2 for provisions that apply to certain conveyances of real property held by spouses or reciprocal beneficiaries as tenants by the entirety to their separate trusts in equal shares as tenants in common. Generally, if specified conditions are met, that property has the "same immunity from the claims of their separate creditors as would exist if the spouses or reciprocal beneficiaries had continued to hold the real property or its proceeds as tenants by the entirety."

Statutory section amended 2012.

[Haw. Rev. Stat. § 509-2 \(2017\)](#)

Idaho

Idaho, Nonsecuritized TICs

CREATING A TIC

A real estate interest granted or devised to multiple persons, other than as executors or trustees, is deemed to be a TIC, unless expressly declared to be otherwise.

OTHER RELEVANT PROVISIONS

Partnership formation

A TIC, by itself, does not establish a partnership, even if the co-owners share profits made by using the property.

Statutory section 55-508 enacted 1864; § 30-23-202 enacted 2015.

[Idaho Code §§ 30-23-202; 55-508 \(2018\)](#)

Idaho, State TIC Securities

RELEVANT STATE SECURITIES LAWS

No specifically relevant provisions were located.

However, a "security" includes, among other things, a "fractional undivided interest in oil, gas or other mineral rights." The issuer of "a fractional undivided interest in an oil, gas or other mineral

lease or in payments out of production under a lease, right or royalty is the owner of an interest in the lease or in [those] payments . . . that creates fractional interests" for sale purposes.

NO REGISTRATION IN BENEFICIARY FORM

Individuals whose security registration shows multiple ownership as tenants in common may not obtain registration in beneficiary form. Multiple owners of a security registered in beneficiary form hold as joint tenants, tenants by the entireties, or owners of community property held in survivorship form, not as tenants in common.

Statutory section 15-6-302 enacted 1996; § 30-14-102 amended 2012.

[Idaho Code §§ 15-6-302; 30-14-102 \(2018\)](#)

Idaho, TIC Ownership

TIC OWNERSHIP LIMITATIONS

Action for waste

If a tenant in common of real property commits waste on the property, any aggrieved person may bring an action for waste, in which there may be a judgment for treble damages.

TIC OWNERSHIP RIGHTS

Action for partition or sale

If several cotenants hold and possess real property as tenants in common or otherwise, and one or more has "an estate of inheritance, or for life or lives, or for years," one or more of the parties may bring an action

- for partition, according to the interested parties rights; and

- for a sale of all or part of the property, if a partition would greatly prejudice the owners.

The summons must be directed to all joint tenants and tenants in common, all persons with a property interest, and to all unknown persons who have or claim a property interest.

If, in the court's opinion, it is "impracticable or highly inconvenient" to make a complete partition in the first instance, the court may first determine the interests held by the original cotenants, and partition the property as if the original cotenants were the sole parties in interest and the only parties to the action. Then, the court may later

- proceed in like manner to partition separately each share so allotted "as between those claiming under the original tenant," or
- allow them to remain tenants in common, as they may desire.

OTHER INCIDENTS OF OWNERSHIP

Homestead exemptions

In the context of the state's homestead exemption granted by Idaho Code § 63-602G, any partial ownership is considered "ownership" for determining qualification for the homeowner's exemption, but the exemption amount is generally determined on the reduced portion of the value that is proportionate with the partial ownership amount.

Regulation 35.01.03.609 provides specific procedures to determine the value of the homeowner's exemption if tenants in common have two improvements located on one parcel of land, unless the owner-occupant has documented evidence of a different ownership interest in the improvement.

Lottery exceptions

Idaho criminal statutes prohibiting lotteries explicitly do not apply to "the partitioning or division of real property and improvements thereon between joint owners or tenants in common by lot or any other method that such joint owners or tenants in common or their representative may agree upon."

Statutory sections 6-201, 6-501, 6-505 and 6-509 amended 1919; § 18-4909 amended 1976.
Regulation amended 2018.

[Idaho Code §§ 6-501, -505, -201, -509; 18-4909 \(2018\); Idaho Admin. Code r. 35.01.03.609 \(2018\)](#)

Idaho, TIC Sale or Transfer

No specifically relevant provisions were located.

Illinois

Illinois, Nonsecuritized TICs

CREATING A TIC

Illinois law presumes that a transfer to multiple parties creates a TIC. Except for transfers to executors and trustees, a joint tenancy is created only if the premises are expressly declared "to pass not in tenancy in common but in joint tenancy."

OTHER RELEVANT PROVISIONS

Partnership formation

A TIC, by itself, does not establish a partnership, even if the co-owners share profits made by using the property.

Statutory section 206/202 effective 2003; § 1005/1 enacted 1990.

[765 Ill. Comp. Stat. 1005/1; 805 Ill. Comp. Stat. 206/202 \(2018\)](#)

Illinois, State TIC Securities

RELEVANT STATE SECURITIES LAWS

No specifically relevant provisions were located.

However, Illinois securities laws define "security" to include, among other things, a "fractional undivided interest in oil, gas or other mineral lease, right or royalty."

NO REGISTRATION IN BENEFICIARY FORM

Individuals whose security registration shows multiple ownership as tenants in common may not obtain registration in beneficiary form. Multiple owners of a security registered in beneficiary form hold as joint tenants, tenants by the entireties, or owners of community property held in survivorship form, not as tenants in common.

Statutory section 10/2 effective 1995; § 5/2.1 amended 2010.

[815 Ill. Comp. Stat. 10/2, 5/2.1 \(2018\)](#)

Illinois, TIC Ownership

TIC OWNERSHIP LIMITATIONS

Liability to cotenants

If one or more tenants in common take profits or benefits in greater proportion than their interests, such person or persons must account for the profits or benefits to any cotenants.

Action for waste

If a person exercises exclusive ownership over, or takes away, destroys, lessens in value, or otherwise injures or abuses property held in a TIC, the aggrieved party has a civil action for the injury in the same manner as if the TIC did not exist.

TIC OWNERSHIP RIGHTS

Possession rights

Any two or more persons claiming the same premises as joint tenants or tenants in common may join in an action to recover the premises. Also, any one party may sue alone for his or her share.

If a tenant in common or joint tenant brings an ejectment action against his or her cotenants, the plaintiff must prove "lease, entry and ouster." The plaintiff, in addition to all other evidence he or she must introduce, must prove that the defendant

- actually ousted the plaintiff; or
- did some other act that amounted to a "total denial of his or her right" as a cotenant.

Action for partition or sale

If property is held in a TIC or other form of co-ownership, any one or more of the interested persons may compel a partition.

Ownership of an interest in the surface of lands by a co-owner of a mineral interest does not prevent partition of the mineral estate. Similarly, ownership of an interest in minerals by a co-owner of a surface interest does not prevent partition of the surface, and ownership of an interest in some, but not all, of the mineral estate by a co-owner with an interest in other minerals does not prevent partition of the co-owned minerals.

Persons who own, jointly or as tenants in common, property used to generate, transmit or distribute electricity or to produce, gather, store, process, transmit or distribute manufactured or natural gas, may agree to waive their rights to partition the property or otherwise restrict the alienation of the property for a time period that ends no later than the abandonment of its use.

OTHER INCIDENTS OF OWNERSHIP

Homestead exemptions

Every individual is entitled to a homestead estate of \$15,000 of his or her interest in a farm or property owned or leased and occupied by him or her as a residence. The homestead is exempt from attachment or judgment for the payment of debts. Although this provision is not applicable between joint tenants or tenants in common, it is applicable as to any of their creditors. If two or more individuals own property that is exempt as a homestead, each individual's exemption may not exceed his or her proportionate share of \$30,000, based on his or her ownership percentage.

Oil and gas removal actions

When the right to drill for and remove oil and gas is owned by joint tenants or tenants in common, any one or more persons owning at least a one-half interest in that right may bring an action to drill for and remove oil and gas from the land. If the court finds that the plaintiffs own at least a one-half interest as tenants in common (or otherwise), the court must

- authorize the plaintiffs to drill for and remove oil and gas so as to realize its "full value" for the entitled parties' benefit;
- order the plaintiffs' disposition of the proportionate part of the defendants' oil and gas; and
- provide for the payment and distribution of net proceeds to the defendants according to their interests, after deducting the proportionate costs of the proceedings and of drilling for, producing, and disposing of the oil and gas.

Coal rights petitions

If the title to coal is owned by tenants in common (or other co-owners), any coal owner or owners with at least a one-half interest in coal under the lands, or any coal lessee of those owners,

may petition to mine and remove coal from the land. A petition will not be authorized for the surface mining and removal of coal unless all of the surface owners consent. The circuit court may

- declare a trust in the land for all persons owning an interest in the coal who are not plaintiffs; and
- authorize the trustee to "sell, execute, and deliver a valid lease" on the lands on behalf of all defendants on terms and conditions approved by the court.

Spousal rights

For property-distribution purposes under Illinois marriage dissolution laws, all property acquired by either spouse after marriage, but before a marriage dissolution judgment, is presumed to be marital property, whether title is held individually or by the spouses in some form of co-ownership such as a TIC. A spouse may overcome this marital property presumption by showing through clear and convincing evidence that a party acquired the property:

- by a method listed in 750 Ill. Comp. Stat. 5/503(a); or
- "was done for estate or tax planning purposes or for other reasons that establish that the transfer was not intended to be a gift."

Eligibility for "Home Ownership Made Easy"

The "Home Ownership Made Easy" program is available to any person who, as a sole owner, a tenant in common or a joint tenant, does not hold an ownership interest in residential real estate.

Statutory sections 1005/4 and 1005/4a enacted 1935; § 1010/2 enacted 1967; § 520/7 amended 1979; §§ 5/6-105, 5/6-120 and 5/6-122 amended 1982; § 520/1 amended 1984; §§ 540/10 and 540/20 effective 2001; § 55/4 amended 1992; § 5/17-101 amended 2004; § 5/12-901 effective 2006; § 5/503 amended 2017. Regulatory chapter amended 1998.

[310 Ill. Comp. Stat. 55/4](#); [735 Ill. Comp. Stat. 5/17-101](#); [/6-105, -120, -122](#); [/12-901](#); [750 Ill. Comp. Stat. 5/503](#); [765 Ill. Comp. Stat. 520/1, /7](#); [540/10, /20](#); [1005/4, /4a](#); [1010/2 \(2018\)](#); [Ill. Admin. Code tit. 74, § 750.30 \(2018\)](#)

Illinois, TIC Sale or Transfer

No specifically relevant provisions were located.

Indiana

Indiana, Nonsecuritized TICs

CREATING A TIC

A conveyance or devise of land or a land interest to multiple persons creates a TIC, not a joint tenancy, unless

- the conveyance or devise expresses that the grantees or devisees hold in joint tenancy and to their survivors;
- the intent to create a joint tenancy “manifestly appears” from the instrument’s “tenor”; or
- the instrument is a mortgage, conveyance in trust, or conveyance to a husband and wife.

An estate held by executors or trustees is held in joint tenancy.

A written contract in which a husband and wife purchase real estate, or lease real estate with an option to purchase, creates an estate by the entireties, unless the contract expressly creates a TIC or the contract’s “tenor” indicates an intent to create a TIC.

OTHER RELEVANT PROVISIONS

No straw-man required

A person who owns or has an interest in real property may effectively convey the property or interest, including into a TIC, by naming as grantees that person and others.

Similarly, multiple persons who own or have an interest in real property may effectively convey the property or interest, including into a TIC, by naming as grantees one or more of those persons. The conveyance is as effective as if it were a conveyance from a stranger to the persons named as grantees.

Oil and gas land estates

Title to oil and gas or coal-bed methane interests may be held by multiple persons in a TIC, among other ownership forms.

Partnership formation

A TIC, by itself, does not establish a partnership, even if the co-owners share profits made by using the property.

Statutory section 23-4-1-7 amended 1997; §§ 32-17-2-1, 32-17-3-1, 32-21-10-2, 32-21-10-3 enacted 2002; § 32-23-7-7 amended 2011.

[Ind. Code §§ 23-4-1-7\(2\); 32-17-2-1, -3-1; 32-21-10-2, -3; 32-23-7-7 \(2018\)](#)

Indiana, State TIC Securities

RELEVANT STATE SECURITIES LAWS

No specifically relevant provisions were located.

Indiana's securities laws define "securities" to include, among other things, fractional undivided interests in oil, gas, or other mineral rights. In this context, "issuer" means the owner of "an interest in the lease or in payments out of production under a lease, right, or royalty, whether whole or fractional, that creates fractional interests for the purpose of sale."

NO REGISTRATION IN BENEFICIARY FORM

The statutory provision that previously provided that individuals whose security registration shows multiple ownership as tenants in common may not obtain registration in beneficiary form has been repealed.

TRANSFER ON DEATH PROPERTY ACT

If an owner records a transfer on death deed and the owner's interest is as a tenant in common, the owner's interest passes to the beneficiary as a transfer on death transfer. If the owner's interest is as a joint tenant, the conveyance severs the joint tenancy, and the cotenancy becomes a tenancy in common.

Statutory section 32-17-9-7 repealed 2009; 32-17-14-11 amended 2011; § 23-19-1-2 amended 2014.

[Ind. Code §§ 23-19-1-2; 32-17-14-11\(e\) \(2018\)](#)

Indiana, TIC Ownership

TIC OWNERSHIP LIMITATIONS

No specifically relevant provisions were located.

TIC OWNERSHIP RIGHTS

Action by one tenant in common

In an action by a plaintiff who is a tenant in common against a cotenant, the plaintiff must show

- the plaintiff's "evidence of right"; and
- that the defendant denied plaintiff's right or did some act that amounted to a denial of the plaintiff's right.

Action for partition or sale

A person who holds a land interest as a tenant in common, either in the person's own right or as an executor or trustee, may bring a partition action.

Generally, claims to an estate in fee or life to any real estate may not be submitted to arbitration. However, a controversy regarding the partition of lands between joint tenants or tenants in common may be submitted to arbitration.

Documents involving the partition of land between tenants in common are included in the definition of "conveyance documents."

Action against a cotenant

A claimant who is a tenant in common may bring an action against the claimant's cotenant for receiving more than his or her share of rents, profits or in-kind payments.

OTHER INCIDENTS OF OWNERSHIP

Assessed value deductions

An individual may obtain a deduction from his or her real property's assessed value, or a mobile or manufactured home that is not assessed as real property, if certain conditions are met, including specified age and income requirements. In that context, the combined adjusted gross income of the individual and his or her spouse or the individual and all other individuals with whom he or she (a) shares ownership or (b) is purchasing the property under a contract, as joint tenants or tenants in common, may not exceed \$25,000, among other things.

If real property, a mobile home or a manufactured home is owned by tenants in common, only one deduction is allowed.

The age requirement is satisfied if any one tenant is at least 65.

Senior consumer protection

Indiana's senior consumer protection act protects senior consumers "from financial exploitation from persons, who by deception or intimidation, obtain control over the property or assets of a senior consumer." Includes in the act's definition of "person in a position of trust and confidence" is a person who is a joint tenant or tenant in common with the senior consumer. The act provides greater penalties for knowing violations committed by a person in a position of trust and confidence, including treble damages and a civil penalty of no more than \$10,000.

Statutory section 34-57-1-2 enacted 1998; §§ 32-17-4-1, 32-30-2-23, and 32-30-9-1 enacted 2002; § 6-1.1-5.5-2 amended 2009; § 6-1.1-12-9 amended 2010; §§ 24-4.6-6-2, 24-4.6-6-3, and 24-4.6-6-5 enacted 2013.

[Ind. Code §§ 6-1.1-5.5-2, -12-9; 24-4.6-6-2, -3, -5; 32-17-4-1; 32-30-2-23 -9-1; 34-57-1-2 \(2018\)](#)

Indiana, TIC Sale or Transfer

No specifically relevant provisions were located.

Iowa

Iowa, Nonsecuritized TICs

CREATING A TIC

A conveyance to multiple parties "in their own right" creates a TIC, unless the conveying document expresses a contrary intent or one of the following circumstances creates a presumption of joint tenancy:

- the instrument identifies two grantees as married to each other when they execute the instrument;
- the instrument describes the conveyance with the phrase "joint tenants," "joint tenancy," or similar words; or
- the instrument describes the conveyance to the grantees with the phrase "or their survivor" or similar words.

OTHER RELEVANT PROVISIONS

Partnership formation

A TIC does not, by itself, create a partnership, even if the co-owners share profits made by using the property.

Statutory section 486A.202 amended 1998; § 557.15 amended 2014.

[Iowa Code §§ 486A.202; 557.15 \(2018\)](#)

Iowa, State TIC Securities

RELEVANT STATE SECURITIES LAWS

No specifically relevant provisions were located.

However, the Iowa Uniform Securities Act defines "security" to include a "fractional undivided interest in oil, gas, or other mineral rights." An issuer of fractional undivided interests in an oil, gas, or other mineral lease, or in production payments, is the "owner of an interest in the lease or in payments out of production . . . that creates fractional interests" for sale purposes.

NO REGISTRATION IN BENEFICIARY FORM

An individual whose security registration shows ownership by multiple individuals as tenants in common may not obtain registration in beneficiary form. Multiple owners of a security registered in beneficiary form must hold as joint tenants, tenants by the entirety, or owners of community property in survivorship form, not as tenants in common.

Statutory section 633D.3 amended 2005; § 502.102 amended 2013.

[Iowa Code §§ 502.102; 633D.3 \(2018\)](#)

Iowa, TIC Ownership

TIC OWNERSHIP LIMITATIONS

Liability to cotenants for rent

If real estate is held by multiple persons as tenants in common and one or more of the tenants possessed or possesses the real estate, any one or more of the other tenants in common may sue for and recover from the tenants in possession, their proportionate part of the real estate's rental value for that time, not exceeding five years, that the real estate was in the other tenant's possession.

Action for waste

If a tenant in common of real property commits waste, he or she is liable to pay three times the resulting damages to the person entitled to sue.

TIC OWNERSHIP RIGHTS

Redemption rights

If the interests of "several tenants in common" have been sold on execution, the "undivided portion of any or either of them may be redeemed separately."

Partition of Heirs Property

Iowa's 2018 legislation related to partition actions applies to petitions filed on or after July 1, 2018. Pursuant to that act, in an action to partition real property, the court must determine whether the property is heirs property. If the court determines that the property is heirs property, the property must be partitioned under the new Iowa Code ch. 651, unless all of the cotenants agree otherwise in a record.

The term "heirs property" means real property held in tenancy in common that satisfies all of the following requirements:

- there is no agreement in a record binding all the cotenants that governs the property's partition;
- one or more of the cotenants acquired title from a relative; and
- either (i) 20 percent or more of the interests are held by cotenants who are relatives; (ii) 20 percent or more of the interests are held by an individual who acquired title from a relative; or (iii) 20 percent or more of the cotenants are relatives.

Action against a cotenant

In an action by a tenant in common against a cotenant, the plaintiff must show

- the plaintiff's evidence of right; and
- that the defendant either denied the plaintiff's right or did an act that amounted to the denial.

OTHER INCIDENTS OF OWNERSHIP

Property tax credit

"Joint tenancy" for purposes of property tax credits includes ownership of a homestead by two or more persons as tenants in common.

Property taxes due

If multiple persons own homestead property as joint tenants or tenants in common and if one or more of them are not members of claimant's household, "property taxes due" equals that part of the property taxes that equals the ownership percentage of the claimant and his or her household.

Inheritance taxes

Iowa real estate in which a decedent had an interest at the time of death is included in a gross estate for inheritance tax purposes, regardless of whether the decedent was an Iowa resident or whether the property or interest is owned singly, jointly, or in common.

Jump-start housing assistance program

When determining eligibility for Iowa's jump-start housing assistance program, multiple persons who own a disaster-affected home together, such as tenants in common, are generally "deemed collectively to be the 'eligible resident'" provided other relevant regulatory requirements are met.

Unincorporated nonprofit associations

An unincorporated nonprofit association does not "include" a joint tenancy or tenancy in common, even if the co-owners share use of the property for a nonprofit purpose.

Statutory sections 557.16, 628.24, and 646.4 amended 1981; § 658.1A amended 2001; § 501B.2 enacted 2010; § 425.17 amended 2018. Regulatory chapter 701-73 amended 2016; ch. 265-29 amended 2015; ch. 701-86 amended 2016.

[Iowa Code §§ 425.17\(1\), \(8\); 501B.2; 557.16; 628.24; 646.4; 658.1A \(2018\); 2018 Iowa Laws ch. 1108](#) (to be codified as Iowa Code ch. 651) [Iowa Admin. Code r. 701-73.7, -86.5; 265-29.2 \(2018\)](#)

Iowa, TIC Sale or Transfer

GENERAL SALE AND TRANSFER PROVISIONS

No relevant provisions were located.

OTHER RELEVANT PROVISIONS

Real estate disclosures

The term "transfer," as used in the real estate disclosure requirement provisions, does not include a transfer between joint tenants or tenants in common.

Statutory section 558A.1(4) amended 2017.

[Iowa Code § 558A.1\(4\)\(d\) \(2018\)](#)

Kansas

Kansas, Nonsecuritized TICs

CREATING A TIC

Real property granted or devised to two or more persons, including a husband and wife, creates a TIC unless it is clear that the parties intended a joint tenancy, except that a grant or devise to executors or trustees creates a joint tenancy unless it expressly states otherwise.

OTHER RELEVANT PROVISIONS

Partnership formation

A TIC does not by itself create a partnership, even if the co-owners share profits made by using the property.

Statutory section 56a-202 enacted 1998; § 58-501 amended 1955.

[Kan. Stat. §§ 56a-202\(c\)\(1\); 58-501 \(2017\)](#)

Kansas, State TIC Securities

RELEVANT STATE SECURITIES LAWS

No specifically relevant provisions were located.

However, the Kansas Uniform Securities Act defines "security" to include a "fractional undivided interest in oil, gas, or other mineral rights." An issuer of fractional undivided interests in an oil, gas, or other mineral lease, or in production payments, is the "owner of an interest in the lease or in payments out of production . . . that creates fractional interests" for sale purposes.

NO REGISTRATION IN BENEFICIARY FORM

Individuals whose security registration shows multiple ownership as tenants in common may not obtain registration in beneficiary form. Multiple owners of a security registered in beneficiary form hold as joint tenants, tenants by the entireties, or owners of community property held in survivorship form, not as tenants in common.

Statutory section 17-49a02 enacted 1994; § 17-12a102 amended 2006.

[Kan. Stat. §§ 17-12a102, -49a02 \(2017\)](#)

Kansas, TIC Ownership

TIC OWNERSHIP LIMITATIONS

No specifically relevant provisions were located.

TIC OWNERSHIP RIGHTS

Waiver of partition rights

Any two or more persons who own, jointly or as tenants in common, property used to generate, transmit or distribute electricity, or to produce, gather, store, process, transmit or distribute manufactured or natural gas, may agree to waive their partition rights during the time the property is so used.

Taxes upon partition or sale

If land held by tenants in common is sold upon partitioning, taken by the parties, or sold at a judicial sale or by administrators, executors, conservators, or trustees, the court must order all taxes and penalties to be discharged out of the sale proceeds.

Action against a cotenant for recovery of profit

A tenant in common, among other co-owners, may maintain an action against his or her cotenant for receiving more than his or her "just proportion" of any rents and profits.

Action against a cotenant for possession

In an action to recover possession of real property against a tenant in common, the petition must state that the defendant either

- denied plaintiff's right to possess the property; or
- performed an act that amounted to a denial.

Redemption rights

If the interests of several tenants in common have been sold on execution, any tenant may separately redeem an undivided portion.

OTHER INCIDENTS OF OWNERSHIP

Benefit districts

After an ordinance creating a benefit district has passed, no further proceedings will occur unless the resident owners file a petition requesting the establishment of public parking stations within 60 days. The resident owners of at least 51 percent of the front feet of property fronting any street included in a benefit district's limits must sign the petition. If the owners are tenants in common or joint tenants, each cotenant or joint tenant is considered a landowner to the extent of his or her undivided property interest.

Irrigation districts

In the context of petitions and applications to organize irrigation districts, a qualified owner of irrigable land who is a tenant in common is deemed to own the number of acres of land to which that person would be entitled if the real estate were partitioned "upon an acreage basis and not a valuation basis."

Road improvements in benefit districts

With regards to resident landowners' petitions requesting the permanent improvement of one or more roads to a benefit district, if the owners of the affected lands are tenants in common, each cotenant is a legal petitioner "in an amount equal to the cotenant's undivided interest in the tract of land."

Homestead property tax refunds

In the context of homestead property tax refunds, "own" includes property held by one or more joint tenants or tenants in common. If two or more parties own a homestead as joint tenants or tenants in common and one or more of the parties is not a member of claimant's household, "property taxes accrued" equals the part of the levied taxes that reflects the claimant's ownership percentage. Pursuant to related regulations, a claimant whose ownership interest is as a tenant in common is deemed to own the whole, provided that

- all cotenants are members of the claimant's household; and
- the claimant pays all property taxes assessed on the property.

If one or more cotenants are not members of the claimant's household, the claimant is deemed to own only the percentage of the property that reflects his or her legal interest.

Spousal rights

Property owned by married persons, whether held individually or by the spouses in some form of co-ownership, such as joint tenancy or tenancy in common, becomes marital property upon the commencement of an action in which a final decree is entered for divorce, separate maintenance, or annulment.

Noxious-weed notices

Noxious-weed notices may be served on one of several joint owners or tenants in common by personal delivery or certified mail.

Tax abatement for homestead substantially destroyed by a natural disaster

In the context of the state's tax abatement for a homestead destroyed or substantially destroyed by a natural disaster, the term "homestead" means a dwelling, whether owned or rented, that is occupied as a residence. "Owned" includes, among others, one or more joint tenants or tenants in common.

Statutory section 13-1376 amended 1977; § 16-116 enacted 1969; § 42-701 amended 2004; § 58-2522 amended 1923; § 60-1001 amended 1964; § 68-701 amended 1981; § 79-419 amended 1982; § 79-1437e amended 2002; § 23-2801 enacted 2011; § 60-2414 amended 2013; §§ 79-1613 and 79-4502 amended 2014. Regulation 4-8-13 promulgated 1965; regulation 92-22-12 amended 1977.

[Kan. Stat. §§ 13-1376; 16-116; 23-2801; 42-701; 58-2522; 60-1001, -2414; 68-701; 79-419, -1437e, -1613, -4502 \(2017\); Kan. Admin. Regs. §§ 4-8-13; 92-22-12 \(2018\)](#)

[Kansas, TIC Sale or Transfer](#)

GENERAL SALE AND TRANSFER PROVISIONS

No specifically relevant provisions were located.

OTHER RELEVANT PROVISIONS

Real estate sales validation questionnaires

A "real estate sales validation questionnaire" is not required for title transfers made solely to create a joint tenancy or a TIC.

Statutory section amended 2002.

[Kan. Stat. § 79-1437e \(2017\)](#)

Kentucky

Kentucky, Nonsecuritized TICs

CREATING A TIC

No generally relevant provisions were located.

If real estate is conveyed or devised to a husband and wife, they take as tenants in common unless the document expressly provides for survivorship rights.

OTHER RELEVANT PROVISIONS

Partnership formation

A TIC, by itself, does not create a partnership, even if the co-owners share profits made by using the property.

Unincorporated nonprofit association

An "unincorporated nonprofit association" does not include a joint tenancy, tenancy in common, or tenancy by the entireties, even if the co-owners share use of the property for a nonprofit purpose.

Repeal of § 362.180 (which was to be effective January 1, 2008) was repealed effective June 26, 2007, so section is in effect; § 362.1-202(3) enacted 2006; § 381.050 recodified 1980; § 273A.005 enacted 2015.

[Ky. Rev. Stat. §§ 273A.005; 362.180, .1-202\(3\); 381.050 \(2018\)](#)

Kentucky, State TIC Securities

RELEVANT STATE SECURITIES LAWS

No specifically relevant provisions were located.

However, Kentucky securities laws define "security" to include a "fractional undivided interest in oil, gas, or other mineral rights." "Issuer" means the owner of any fractional undivided interests in oil, gas, or other mineral rights "who creates fractional interests therein" for distribution purposes.

NO REGISTRATION IN BENEFICIARY FORM

Individuals whose security registration shows multiple ownership as tenants in common may not obtain registration in beneficiary form. Multiple owners of a security registered in beneficiary form hold as joint tenants, tenants by the entireties, or owners of community property held in survivorship form, not as tenants in common.

Statutory section 292.6502 enacted 1998; § 292.310 amended 2010.

[Ky. Rev. Stat. §§ 292.310, .6502 \(2018\)](#)

Kentucky, TIC Ownership

TIC OWNERSHIP LIMITATIONS

Action for waste

A tenant in common who commits waste is liable to his cotenants for damages.

TIC OWNERSHIP RIGHTS

Action by one tenant in common

In actions for the recovery of money or property held as tenants in common, if one or more of the parties in interest has prosecuted for the benefit of other interested parties, the court must allow

- necessary expenses;
- reasonable compensation for attorney's services; and
- costs.

The allowance must be paid out of the funds recovered before distribution.

Action against a cotenant

In actions between tenants in common, the court must exercise "judicial discretion" regarding costs.

OTHER INCIDENTS OF OWNERSHIP

Construction subdistricts

The sanitation district and the metropolitan sewer district may establish construction subdistricts if at least 25 percent of the land "freeholders" to be included in the subdistrict file a petition. In this context, tenants in common and other joint owners are deemed to be one freeholder or property owner.

Spousal rights

All property acquired by either spouse after marriage and before legal separation is presumed to be marital property, regardless of whether title is held individually or by the spouses in some form of co-ownership such as a TIC. That presumption can be overcome by certain circumstances specified by statute.

Statutory section 76.241 amended 1978; § 220.553 enacted 1966; § 381.050 amended 1980; § 403.190 amended 1996; § 412.070 amended 1966; § 453.040 amended 1982.

[Ky. Rev. Stat. §§ 76.241, 220.553, 381.050, 403.190\(3\), 412.070, 453.040\(2\) \(2018\)](#)

Kentucky, TIC Sale or Transfer

No specifically relevant provisions were located.

Louisiana

Louisiana, Nonsecuritized TICs

CREATING A TIC

Ownership by two or more persons is ownership in indivision. In the absence of "other provisions of law or juridical act," all co-owners' shares are presumed to be equal.

(Note that Louisiana statutes generally reference "property held in indivision" or "thing held in indivision," rather than TIC.)

OTHER RELEVANT PROVISIONS

No other specifically relevant provisions were located.

Article enacted 1990.

[La. Civ. Code art. 797 \(2017\)](#)

Louisiana, State TIC Securities

RELEVANT STATE SECURITIES LAWS

No specifically relevant provisions were located.

However, the Louisiana Securities Law defines "security" to include a "fractional undivided interest in oil, gas, or other mineral rights." With respect to such fractional undivided interests, "issuer" means the owner of the right or of any interest in the right, "who creates fractional interests therein for the purpose of public offering."

Statutory section amended 2008.

[La. Rev. Stat. § 51:702 \(2017\)](#)

Louisiana, TIC Ownership

TIC OWNERSHIP LIMITATIONS

Action for waste

"A co-owner is liable to his co-owner for any damage to the thing held in indivision caused by his fault."

Substantial alterations or improvements

All co-owners must consent to "substantial" alterations or improvements to the thing held in indivision. If a co-owner makes substantial alterations or improvements that are consistent with the property's use, but without his co-owners' consent, the parties' rights are determined by article 496 (regarding construction by possessor in good faith). If a co-owner makes substantial alterations or improvements that are inconsistent with the property's use or are made in spite of his co-owners' objections, the parties' rights are determined by article 497 (regarding construction by bad-faith possessor).

Maintenance and management expenses

A co-owner who has incurred the following expenses related to a thing held in indivision is entitled to reimbursement from the other co-owners in proportion to their shares:

- necessary expenses;
- ordinary maintenance and repair expenses; or
- necessary management expenses paid to a third person.

However, if the co-owner who incurred the expenses enjoyed the property, his or her reimbursement is reduced "in proportion to the value of the enjoyment."

Lien for costs of demolition, removal, and maintenance by a municipality

If property that may be subject to a lien in favor of a municipality is owned in indivision and the tax assessor lists the owners separately, the municipality must notify each owner of his or her liability for demolition, removal or maintenance costs. Upon an owner's failure to pay his or her share of the charges, the part of the property for which the charges are not paid is subject to a lien in favor of the municipality. Upon payment by an owner of his or her share of the charges, attorney fees, and interest, the lien will be removed from the paying owner's proportionate interest. If outstanding charges are added to the tax bill, the paying owner's share must be reflected on the bill, and his interest in the property is free of the charge.

Mining restrictions

A co-owner of mineral rights may not conduct operations on the property without the consent of co-owners owning at least 80 percent of the interest, provided that:

- he has made "every effort" to contact those co-owners; and
- if contacted, he has offered to contract with them on "substantially the same basis" as with every other co-owner.

A co-owner of the servitude who does not consent to the operations has no liability for development and operations costs except out of his production share.

TIC OWNERSHIP RIGHTS

Usage rights

Except as otherwise provided in article 801 (regarding use and management by agreement), a co-owner may "use the thing held in indivision according to its destination," but he cannot prevent another co-owner from using it. However, against third persons, a co-owner may use and enjoy the property as if he were the sole owner.

When a property's use and management is not determined by an agreement of all co-owners and partition is not available, a court, upon a co-owner's petition, may determine the property's use and management.

Disposition of undivided shares

A co-owner may "lease, alienate, or encumber" his share of property held in indivision. However, all co-owners must consent to the lease, alienation, or encumbrance of the entire thing held in indivision.

Preservation rights

Without any other co-owner's consent, one co-owner may take necessary steps to preserve property held in indivision.

Right to proceeds

Co-owners must share, in proportion to their ownership, "the fruits and products" of property held in indivision. If one co-owner produces the "fruits or products," other co-owners are entitled to their shares after deducting production costs.

Action for partition or sale

No party may be compelled to hold property in indivision, unless otherwise provided by law or judicial act. Thus, a co-owner may demand partition of a thing held in indivision. However, the parties may agree to exclude partition for up to fifteen years, or any other period provided by law (for example, persons holding an electric generating plant in common, may agree that the plant may not be partitioned for a period of up to 99 years).

Generally, except as otherwise provided or unless the property is "indivisible by nature or cannot conveniently be divided," a court must order a partition to be made in kind. More specifically, a court must order a partition in kind if:

- the property held in indivision is susceptible to division "into as many lots of nearly equal value as there are shares"; and
- the lots' aggregate value is not significantly lower than the property's value in indivision.

If the property held in indivision is not susceptible to partition in kind or cannot be conveniently divided, the court must:

- decree a partition by "licitation" or private sale; and
- distribute the proceeds to the co-owners in proportion to their shares.

A partition action lies between all persons who hold property in common.

Although a person with a full-ownership share of property held in indivision may demand partition in kind or by sale, persons with shares only in "naked ownership" or "usufruct" (having only the right to enjoy the advantages) do not have this right, unless they jointly make the demand, in which case their combined shares are deemed to constitute a full-ownership share.

Immovable property agreements

Persons holding immovable property in common may agree not to alienate, encumber, or lease the property for a specific time period no greater than fifteen years. The agreement must be in writing.

OTHER INCIDENTS OF OWNERSHIP

Coastal use permits

A person may not conduct a "use of state or local concern" without a coastal use permit. During the application procedure, if the proposed activity would be located on property owned by more

than ten persons, or owned jointly in an undivided interest consisting of more than ten persons, the secretary may deem the application complete upon proof that 50 percent of the owners have been provided with a copy of the application.

Homestead exemption

The homestead exemption applies to a homestead otherwise eligible that is owned in indivision by spouses, and occupied by either of them, when the "community property regime of which the homestead is a part is dissolved by judgment which so provides."

A homestead owned and occupied, whether by one person or persons owning the property in indivision, is exempt from taxes to the extent of \$7,500 of its assessed valuation. Except as otherwise provided, the homestead exemption applies to property owned in indivision, but it is limited to the portion of the ownership interest of that person occupying the homestead.

Removal of grass and weeds

If property that may be subject to a lien in favor of a parish for grass and weed removal is owned in indivision and the tax assessor lists the owners and their proportionate shares, then any notice to cut grass and weeds must:

- be sent to each owner in indivision; and
- list the share of the charges due from that owner.

Upon an owner's failure to pay his or her share of the charges the parish incurs cutting and removing grass and weeds, that part of the property for which the charges are not paid is subject to a lien in favor of the parish.

Upon payment by an owner in indivision of his share of the charges, and after the assessor's certification of the proportionate interest, the lien must be removed from the paying owner's

proportionate interest. If outstanding charges are added to the annual tax bill, the proportionate payment by the paying owner must be reflected on the bill, and his interest, free of the charge, must be distinguished on the tax bill.

Spousal rights

Each spouse owns a present undivided one-half interest in community property. However, for property in which "an undivided interest is held as community property and an undivided interest is held as separate property":

- each spouse owns an "undivided one-half interest in that portion of the undivided interest which is community"; and
- a spouse owns an "undivided interest in that portion of the undivided interest which is separate."

Civil forfeiture to the state

All property derived from racketeering is subject to civil forfeiture to the state. In that context, all forfeitures or dispositions must be made with "due provisions for the rights of factually innocent persons." No ownership interest in indivision is affected by a forfeiture if the owner establishes that he is a "factually innocent person."

Sale of undivided timber interest

A co-owner may sell his or her undivided interest in timber. A buyer who purchases timber from a co-owner may not remove it without the consent of the at least 80 percent of the co-owners, provided that the buyer:

- has made a "reasonable effort" to contact the co-owners who did not consent; and

- if contacted, has offered to contract with them on "substantially the same basis" as with the other co-owners.

A co-owner who does not consent to exercising those rights:

- has no liability for the timber-operation costs; and
- must receive from the buyer the same price that the buyer paid to the other co-owners.

The consenting co-owners must agree to indemnify and hold harmless the nonconsenting co-owners for any damage or injury claims that may result from the operations.

If the nonconsenting co-owner does not claim his or her portion of the timber's sale price, the buyer is obligated to hold the funds in escrow, and any interest earned inures to that co-owner's benefit.

Tax assessments

If a tax debtor requests, a tax assessor may, but is not obligated to, make separate assessments for undivided interests in each tax parcel. (This is an exception to a general rule that there may be only one assessment for each tax parcel.)

Article 1308 amended 1871; art. 2336 amended 1982; arts. 798, 799, 800, 802, 803, 804, 805, 806, 810, and 811 enacted 1990; art. 2341.1 enacted 1991; art. 543 amended 1983; art. 4606 history unknown. Statutory section 9:1112 enacted 1987; § 31:175 amended 1995; § 15:1356 amended 2017; §§ 3:4278.2 and 20:1 amended 2009; §§ 9:1702, 33:4766, 47:1703, and 49:214.30 amended 2010; § 47:2126 amended 2013; § 33:1236 amended 2017. Constitutional section 7-20 amended 2010.

[La. Rev. Stat. §§ 3:4278.2; 9:1112, :1702; 15:1356; 20:1\(B\); 31:175; 33:1236, :4766; 47:1703\(D\), :2126; 49:214.30\(A\)\(2\)\(a\); La. Civ. Code Ann. arts. 543, 798, 799, 800, 802, 803, 804, 805, 806, 810, 811, 1308, 2336, 2341.1; La. Code Civ. Proc. Ann. art. 4606 \(2017\); La. Const. art. 7, § 20](#)

Louisiana, TIC Sale or Transfer

GENERAL SALE AND TRANSFER PROVISIONS

No specifically relevant provisions were located.

OTHER RELEVANT PROVISIONS

Real estate licensee censures

In the context of real estate licensee censures, although the commission may discipline a licensee who offers real estate for sale or lease without the owner's (or his or her authorized agent's) written consent, undivided real estate "may be offered for sale or lease with the written consent of the owner of the property to be sold or leased as to his undivided portion of the property."

Statutory section amended 2014.

[La. Rev. Stat. § 37:1455 \(2017\)](#)

Maine

Maine, Nonsecuritized TICs

CREATING A TIC

A conveyance of land to two or more persons creates a TIC, unless otherwise provided.

OTHER RELEVANT PROVISIONS

Partnership formation

A TIC does not, by itself, establish a partnership, even if the co-owners share profits made by using the property.

Statutory section 159 amended 2011; § 1022 amended 2005.

[Me. Rev. Stat. tit. 31, § 1022; tit. 33, § 159 \(2017\)](#)

Maine, State TIC Securities

RELEVANT STATE SECURITIES LAWS

No specifically relevant provisions were located.

However, the Maine Uniform Securities Act contains two private offering exemptions that are limited to a single issue sold to a limited number of purchasers. In calculating the number of purchasers, a sale to persons who acquire the securities as joint tenants or as tenants in common are counted as sales to each tenant, unless excluded for other reasons by statute.

Also, the Maine Uniform Securities Act defines "security" to include a "fractional undivided interest in oil, gas, or other mineral rights." An issuer of fractional undivided interests in an oil, gas, or other mineral lease, or in production payments, is the "owner of an interest in the lease or in payments out of production under a lease, right, or royalty . . . that creates fractional interests" for sale purposes.

NO REGISTRATION IN BENEFICIARY FORM

An individual whose security registration shows multiple ownership as tenants in common may not obtain registration in beneficiary form. Multiple owners of a security registered in beneficiary form hold as joint tenants, not as tenants in common.

Registrations of securities in beneficiary form made before, on or after July 1, 2019 by decedents dying on or after July 1, 2019 will be governed by Me. Rev. Stat. tit. 18-C, § 6-302, which provides the same.

Statutory section 6-303 enacted 1997; § 6-302 enacted 2018; § 16102 enacted 2005. Regulation amended 2006.

[Me. Rev. Stat. tit. 18-A, § 6-303; tit. 32, § 16102 \(2017\); 02-032-534 Me. Code R. § 2\(5\) \(2018\);](#) See also [2018 Me. Pub. L. ch. 402](#) (recodifying and revising the Maine Probate Code as Title 18-C)

Maine, TIC Ownership

TIC OWNERSHIP LIMITATIONS

Liability for waste

A joint tenant or tenant in common may not cut down timber, dig up ore or other valuable thing, or commit "strip or waste," without giving 30 days' prior written notice to "all other persons," their agents or attorneys, and any mortgagors and mortgagees. A tenant who commits those acts pending a partition of the premises is liable for treble damages. Any one or more of the cotenants, without naming the others, may sue for and recover their share of those damages.

Satisfying an execution

All or part of an estate held in common may be taken to satisfy an execution, but the entire estate and the share owned by the debtor must be described.

TIC OWNERSHIP RIGHTS

Action by one tenant in common

All or any tenants in common may join in an action for injuries to the property, stating in the complaint the names of all other known cotenants. The court may order notice to be given to all other cotenants, and, at any time before final judgment, they may become plaintiffs in the action.

The court must enter judgment for the entire amount of the injury, but it awards execution only for that part sustained by the plaintiffs. The remaining cotenants may later intervene and obtain execution for their share of the damages.

If any one (or more) of the tenants in common take more than their share of rents or income without their cotenants' consent, the cotenants may bring an action to recover their share.

One or more persons claiming as tenants in common may also bring an action for recovery of lands.

Action for partition or sale

Tenants in common may be compelled to divide property by a civil action for partition. Also, persons possessing property, or having a right of entry for a term of years, as tenants in common, may bring a partition action.

If one tenant in common, by mutual consent, has exclusive possession of and has made improvements on part of the estate, the court must assign his share from that part. The court must consider the improvements' value in assigning shares.

Partition of sawmills

Tenants in common of a sawmill may obtain a division of the time during which each may occupy the property.

OTHER INCIDENTS OF OWNERSHIP

Homestead property taxes

As used in statutes addressing the residents' property tax program, "homestead" includes certain dwellings owned by the claimant. In that context, "owned" includes "a vendee in possession under a land contract and of one or more joint tenants or tenants in common." Also, if a homestead is owned by multiple persons as joint tenants or tenants in common, and one or more of the parties are not members of the claimant's household, "property taxes accrued" is that part of homestead's property taxes that reflects the claimant's ownership percentage.

Property tax fairness credit (§§ 5219-II and 5219-KK)

For tax years beginning on or after January 1, 2013, but before January 1, 2014, and for those beginning on or after January 1, 2014, a Maine individual resident is allowed a property tax fairness credit against the state's property taxes. When defining the term "homestead," as used in this context, the term "owned" includes one or more joint tenants or tenants in common, among others.

Property taxes

A tenant in common may be considered "sole owner" for taxation purposes, unless he notifies the assessors of his interest. When a tax is assessed on lands owned in common, any person may furnish the tax collector an accurate description of his interest and pay his share of the tax, in which case his land or interest is free of any lien created by the tax.

Commercial forestry excise tax

Maine's commercial forestry excise tax is based on the number of "adjusted acres," which equals the total number of acres of commercial forest land owned by a person minus 500 acres. Tenants in common are treated as one person and are collectively entitled to only one 500-acre reduction.

Spousal rights

All property acquired by either spouse after marriage and before legal separation is presumed to be marital property, even if title is held in some form of co-ownership such as a TIC.

Forest landowner reporting

As used in Maine's forest-landowner and wood-processor reporting requirement statutes, the "landowner" includes joint owners or tenants in common.

Spruce budworm management

As used in Maine's spruce budworm management act, "person" means any individual or legal entity or any group of persons that "acts as a tenancy in common or joint tenancy for ownership purposes."

Statutory sections 2007, 6506, 6514, and 7505 enacted 1954; § 555 amended 1955; §§ 952, 953 (of tit. 33), and 6501 amended 1959; §§ 951 and 6751 amended 1961; § 6502 amended 1989; § 2724 amended 1993; § 953 (of tit. 19A) amended 2005; § 8881 amended 2012; § 6201 amended 2013; § 5219-II enacted 2013; § 5219-KK amended 2017; § 8423-A amended 2015.

[Me. Rev. Stat. tit. 12, §§ 8423-A, 8881; tit. 14, §§ 2007, 6501, 6502, 6506, 6514, 6751, 7505; tit. 19-A, § 953; tit. 33, §§ 951, 952, 953; tit. 36, §§ 555, 5219-II, 5219-KK, 2724, 6201 \(2017\)](#)

Maine, TIC Sale or Transfer

No specifically relevant provisions were located.

Maryland

Maryland, Nonsecuritized TICs

CREATING A TIC

No provisions generally applicable to creating a TIC were located.

One or more persons may grant a property interest to themselves alone, or to themselves and any other person in a TIC without using a "straw man" as an intermediate party. Also, a property interest held by a husband and wife in tenancy by the entirety may be granted as follows:

- by both, acting jointly, to themselves and any other person in a TIC; and
- by both, acting jointly, to either husband or wife and any other person as tenants in common, among others.

OTHER RELEVANT PROVISIONS

Partnership formation

A TIC does not by itself establish a partnership, even if the co-owners share profits made by using the property.

Statutory section 4-108 amended 1989; § 9A-202 amended 2007.

[Md. Code, Real Prop. § 4-108; Corps. & Ass'ns § 9A-202\(d\)\(1\) \(2017\)](#)

Maryland, State TIC Securities

RELEVANT STATE SECURITIES LAWS

No specifically relevant provisions were located.

NO REGISTRATION IN BENEFICIARY FORM

Individuals whose security registration shows multiple ownership as tenants in common may not obtain registration in beneficiary form. Multiple owners of a security registered in beneficiary form

hold as joint tenants, tenants by the entireties, or as owners of community property held in survivorship form, not as tenants in common.

Statutory section enacted 1994.

[Md. Code, Est. & Trusts § 16-102 \(2017\)](#)

Maryland, TIC Ownership

TIC OWNERSHIP LIMITATIONS

Accountability to cotenants

A tenant in common who receives rent from a third party for the property's use and enjoyment is accountable to any cotenant for the portion of the rent that exceeds his proportionate share.

Liability for waste

A tenant in common, who, without authorization, commits or permits waste is liable for actual damages to the property.

TIC OWNERSHIP RIGHTS

Action for partition or sale

A circuit court may decree a partition of any property upon a tenant in common's petition. If the property cannot be divided without "loss or injury" to the interested parties, the court may

- decree a sale of the property; and

- divide the sale proceeds among the parties according to their rights.

OTHER INCIDENTS OF OWNERSHIP

Homeowners' tax credits and other tax contexts

In the contexts of homeowners' property tax credits, homestead tax credits, and assessing rezoned real property, "legal interest" includes an interest in a dwelling as a tenant in common, among others.

Woodlands incentive programs

An applicant for cost-share assistance in the state's woodlands incentive programs must, among other things, file a "statement of intent" that includes a statement that if there is multiple-party ownership, including a TIC, the party has no knowledge of another pending application for cost-share assistance.

Criminal charges

When referencing tenants in common, a charging document "may name any one of them and speak of them as the named person and another or others, as the case may be."

Statutory sections 14-102 and 14-107 amended 1974; § 14-106 amended 1997; § 4-105 amended 2001; § 8-226 amended 1990; § 5-304 amended 2010; § 9-105 amended 2018; § 9-104 amended 2017.

[Md. Code, Crim. Proc. Law § 4-105](#); [Nat. Res. § 5-304](#); [Tax-Prop. §§ 8-226\(b\)\(4\); 9-104\(a\)\(11\), -105\(a\)\(4\)](#); [Real Prop. §§ 14-102, -106, -107\(a\) \(2017\)](#)

Maryland, TIC Sale or Transfer

No specifically relevant provisions were located.

Massachusetts

Massachusetts, Nonsecuritized TICs

CREATING A TIC

A land conveyance or devise to multiple persons, except in trust, creates a TIC, not a joint tenancy, unless

- the conveyance or devise expressly states that the owners take "jointly, or as joint tenants, or in joint tenancy, or to them and the survivor of them"; or
- it manifestly appears from the instrument's "tenor" that it was intended to create a joint tenancy.

OTHER RELEVANT PROVISIONS

Partnership formation

A TIC, by itself, does not establish a partnership, even if the co-owners share profits made by using the property.

Section 7 of chapter 108A enacted 1922; § 7 of ch. 184 amended 1979.

[Mass. Gen. Laws ch. 108A, § 7; ch. 184, § 7 \(2017\)](#)

Massachusetts, State TIC Securities

RELEVANT STATE SECURITIES LAWS

No specifically relevant provisions were located.

NO REGISTRATION IN BENEFICIARY FORM

Pursuant to the Massachusetts Uniform Probate Code, individuals whose security registration shows multiple ownership as tenants in common may not obtain registration in beneficiary form. Multiple owners of a security registered in beneficiary form hold as joint tenants or tenants by the entireties, not as tenants in common.

Statutory section enacted 2008.

[Mass. Gen. Laws ch. 190B, § 6-302 \(2017\)](#)

Massachusetts, TIC Ownership

TIC OWNERSHIP LIMITATIONS

Action for waste

A joint tenant or tenant in common of undivided land is liable for treble damages if he or she, without 30 days' prior written notice to all other interested persons,

- "cuts down, destroys or carries away" trees, timber, or wood;
- takes stone, ore or other valuable thing;
- commits any other waste; or
- does any of the above acts while a partition petition or proceeding is pending.

Larceny

Stealing real property may be larceny from one or more tenants in common that possess the property, or who may have a tort action against the offender for trespass, but "not from one having only the use or custody" of the property.

TIC OWNERSHIP RIGHTS

Action for partition or sale

A court may partition all or some of land included in a petition of which the parties are co-tenants. However, if all of the common land is not included in the petition, the court may, upon any party's request, include any other part of the common land, unless a partition petition for that land is pending in another court.

A partition petition must

- set forth the nature and extent of each co-tenant's share;
- state whether the co-tenant has "an estate of inheritance, for life or for years" and is in possession, and contain other information regarding the estate;
- contain a description of the land parcel;
- if the common title is derived by will or inheritance from a common ancestor, state the testator's or ancestor's name;
- if title was received by deed, reference the deed;

- request, in the alternative, for division or sale of all or any part of the land that cannot be "advantageously divided"; and
- if a private sale is desired, state the minimum price.

Creditors and other persons claiming encumbrances on the land are not parties, but must be

- named in the petition;
- given the notice ordered by the court; and
- permitted to intervene as necessary to protect their interests or to establish their rights to sale proceeds.

If the court finds that one of the co-tenants has erected a building or made other permanent improvements on the land, it may award compensation for the building's or other improvements' value. However, that compensation may not exceed the amount by which the common land's market value has been increased by the improvements. The court may deduct from that compensation any benefit the party claiming compensation has received from the land. In the case of partition by division, the court may order the improved part set off to the party that made the improvement, and "the land divided as if the improvement had not been made."

The court in a partition proceeding

- has jurisdiction in equity over all matters related to the partition;
- determines the distribution of any sale proceeds;

- may hear and determine all accounting matters between the parties regarding the common land; and
- may appoint a receiver to possess all or part of the land and collect rents and profits.

Joint tenants or tenants in common of a "mill privilege" or water rights may be compelled to divide them in the manner provided above for the division of land.

Recovery of land by cotenant

Joint tenants or tenants in common may join in a civil action to recover land, or any one co-owner may sue alone for his or her share.

OTHER INCIDENTS OF OWNERSHIP

Homestead exemptions

When determining homestead exemptions, a home owner includes a tenant in common, among others. Generally, with respect to the *automatic* homestead exemption related to a home owned by multiple owners as tenants in common, the exemption is allocated among all owners in proportion to their ownership interests. For a *declared* homestead exemption related to a home owned by tenants in common, the exemption for each co-tenant "who benefits by an estate of homestead" is the product of \$500,000 times the co-tenant's ownership interest percentage.

Taxes paid by co-tenants

A tenant in common who pays the entire tax assessed on the land held in common has a lien on each of his co-tenant's interests to secure the payment of the portion of the tax payable by each co-tenant, plus any enforcement costs. However, a person whose tax has been paid by a co-tenant has the right to recover it back "if illegally assessed," as he would have had if he had paid the tax under a written protest.

Levy of executions

If land is held by a debtor in a joint tenancy or a TIC, the creditor may take the debtor's share upon execution. The creditor then holds that share in common with the co-tenant.

If the debtor's share is more than sufficient to satisfy the execution, the levy will be on the undivided portion of the share that, in the appraisers' opinion, satisfies the execution. The creditor holds that undivided portion in common with the debtor and the other co-tenant.

Property held as tenants in common by electric companies and other persons

If an electric company owns an interest as a tenant in common with one or more entities or persons of property used for electric utility company purposes, the surrender or waiver of partition rights for a period not to exceed the period for which the property is used for electric utility company purposes is valid. The applicable property includes, but is not limited to, "water storage reservoirs, transmission lines, plants for generating electricity, office buildings and equipment, and transportation equipment."

Local tax exemptions

A specified amount of the following property, among others, is generally exempt from local taxation:

- certain real property of a person who by reason of poverty or financial hardship resulting from a change to active military status, who is unable to contribute fully to the public charges, provided the person owns and occupies the property as his or her domicile or owns the property as a tenant in common (or other specified co-ownership forms) with another person who is not a spouse, the person occupies the property as his or her domicile and has been domiciled in the commonwealth for the preceding 10 years;
- certain real property of a person who has reached his seventieth birthday and who owns the property jointly or as a tenant in common with a person not his spouse, and the person occupies the premises as his or her domicile, provided other specified conditions are met; or

- certain real property of a person at least 65 years old that is occupied as his or her domicile or of a person who owns that property jointly or as a tenant in common with another person who is not his or her spouse, and that the person occupies as his or her domicile and he or she has been domiciled in the commonwealth for the preceding 10 years.

Tenement house requirements

Massachusetts statutes that place certain requirements on tenement-house owners define "person" to include, among others, tenants in common.

Repairing and rebuilding mills

If a mill owned by tenants in common requires repairs or rebuilding, and all owners do not join in the repair or rebuilding, a majority in interest may cause the work to be done at the expense of all owners, in proportion to their interests.

Spousal rights

After filing for divorce or for separate support or maintenance, a probate court may, upon motion of a person whose spouse has abandoned him or her, leaving him or her without sufficient means, may authorize the moving party to sell, convey, or mortgage certain of the opposing party's real property, including any property within the commonwealth held by both spouses as tenants in common.

Eminent domain damages

If tenants in common (or other co-owners) sustain damages in the property that are recoverable under the state's eminent domain laws, the co-owners may join in any petition to recover the damages, or any one or more of them may petition for his or their damages, subject to certain specified conditions.

Residential Energy Credit

Residential-property joint owners may share any energy credit claimed for "renewable energy source property expenditures" in the same proportion as their ownership interests. Joint owners, including tenants in common, are subject to a maximum credit of \$1000.

Statutory section 4 of chapter 242 amended 1902; § 4 of ch. 241 amended 2002; §§ 51 and 12 amended 1902; § 85 amended 1909; §§ 6, 36, and 23 of ch. 241 amended 1917; § 23 of ch. 79 amended 1920; §§ 99A, 60C, and 95C enacted 1966; § 8 amended 1973; § 30 of ch. 209 amended 1977; § 30 of ch. 266 amended 1995; § 25 amended 2002; § 1 enacted 2010; § 5 amended 2017; r. 62.6.1 amended 2016.

[Mass. Gen. Laws ch. 59, § 5](#); [ch. 60, § 85](#); [ch. 79, § 23](#); [ch. 144, § 95C](#); [ch. 145, §§ 60C](#); [ch. 164, § 99A](#); [ch. 188, § 1](#); [ch. 209, § 30](#); [ch. 236, § 12](#); [ch. 237, § 8](#); [ch. 241, §§ 4, 6, 23, 25, 36](#); [ch. 242, § 4](#); [ch. 253, § 51](#); [ch. 266, § 30\(3\) \(2017\)](#); [830 Mass. Code Regs. 62.6.1 \(2018\)](#)

Massachusetts, TIC Sale or Transfer

No specifically relevant provisions were located.

Michigan

Michigan, Nonsecuritized TICs

CREATING A TIC

No specifically relevant provisions were located.

OTHER RELEVANT PROVISIONS

Partnership formation

A TIC does not, by itself, establish a partnership, even if the co-owners share profits made by using the property.

Statutory section amended 1948.

[Mich. Comp. Laws § 449.7\(2\) \(2018\)](#)

Michigan, State TIC Securities

RELEVANT STATE SECURITIES LAWS

No specifically relevant provisions were located.

However, the Michigan Uniform Securities Act defines "security" to include a "fractional undivided interest in oil, gas, or other mineral rights." An issuer of fractional undivided interests in an oil, gas, or other mineral lease, or in production payments, is the "owner of an interest in the lease or in payments out of production . . . that creates fractional interests" for sale purposes.

NO REGISTRATION IN BENEFICIARY FORM

An individual whose security registration shows multiple ownership as tenants in common may not obtain registration in beneficiary form. Multiple owners of a security registered in beneficiary form hold as joint tenants or tenants by the entireties, not as tenants in common.

Statutory section 700.6302 amended 2000; § 451.2102c enacted 2008; § 451.2102a amended 2013.

[Mich. Comp. Laws §§ 451.2102a, .2102c; 700.6302 \(2018\)](#)

Michigan, TIC Ownership

TIC OWNERSHIP LIMITATIONS

Liability for waste

A tenant in common who commits waste is liable to cotenants for double the amount of actual damages. One tenant in common may bring a claim for waste by a cotenant.

TIC OWNERSHIP RIGHTS

Action for partition or sale

All persons holding land as tenants in common may have the land partitioned.

Action against a cotenant

One tenant in common (and his executors or administrators) may maintain an action against a cotenant for receiving more than his share of the estate's rents or profits.

Redemption rights

Each tenant in common with an undivided share in the property sold may redeem the property by paying to the purchaser or officer "a sum that bears the same proportion to the whole sum bid for the premises or for the particular lot or tract as the share proposed to be redeemed bears to the whole number of shares of the premises, lot, or tract," together with interest.

Actions to quiet title

A tenant in common who recovers an undivided interest in lands in an action to quiet title against a person who may possess the property, but who does not show at trial that he has an interest in or title to the property, may take possession of the entire premises, subject to the other tenants' rights and interests in the property.

OTHER INCIDENTS OF OWNERSHIP

Property taxes

Undivided interests in property owned by "tenants in common, or joint tenants not being copartners," may be assessed to the owners.

In the context of property tax assessment, "transfer of ownership" includes, among other things, a transfer of property held as a TIC, except "that portion of the property not subject to the ownership interest conveyed."

Mineral rights

If land, oil and gas, or oil and gas mineral rights are owned by tenants in common, the tenants who hold a majority interest are authorized

- to "explore, drill, mine, develop and operate" the land for oil and gas mining purposes;
- to remove and transport oil, gas and other petroleum products from the land;
- to store oil, gas and other petroleum on the property; and
- to sell and dispose of the oil, gas and other petroleum as provided by statute.

If a court finds that plaintiffs own a majority interest of such land, or of the oil and gas mineral rights on the land, as tenants in common, then the court must authorize the complaining plaintiffs to operate the land for oil and gas mining purposes, to remove oil and gas, and to sell or dispose of it in order to realize its full value for the all entitled parties' benefit.

Exploration of land for mining purposes

If land or mineral rights are owned by tenants in common or other joint owners, the owners who hold at least a 3/4 interest in the land or mineral rights may

- explore, drill, mine, develop, and operate the land for mining purposes, "except for oil and gas";
- remove and transport the minerals or store them on the property; and
- sell and dispose of the minerals in the manner provided for by statute.

If the owners of at least 3/4 of the property interest file a complaint to authorize the owners to lease the land or mineral rights or to explore, drill, mine, develop, and operate the land for mining purposes, and if the court finds that the plaintiffs own the required interest in the land or mineral rights as tenants in common or otherwise, the court must authorize the plaintiffs

- to lease for mining purposes (except for oil and gas);
- to remove the minerals from the land; and
- to sell the minerals to realize their full value for all entitled parties' benefit.

The defendants and minority interest holders must receive their proportionate share of the proceeds.

Water power companies

All tenants in common of the water, water-power, easements or canal of a water-power association are deemed to have consented to repairs and improvements that are "proper or necessary for the protection and preservation" of the canal. They are also liable to pay their share of those repairs and improvements.

Statutory sections 211.6, 319.101, 319.108, 486.22, and 554.138 amended 1948; §§ 600.2919 and 600.3304 enacted 1961; § 600.2932 amended 1964; §§ 324.63302 and 324.63304 enacted 1995; § 600.6062 amended 2004; § 211.27a amended 2016; § 211.24 amended 2017.

[Mich. Comp. Laws §§ 211.6, .24\(1\)\(g\), .27a\(6\)\(i\); 319.101, .108; 324.63302, .63304; 486.22; 554.138; 600.2919\(2\), .2932\(4\), .3304, .6062\(2\)\(f\) \(2018\)](#)

Michigan, TIC Sale or Transfer

No specifically relevant provisions were located.

Minnesota

Minnesota, Nonsecuritized TICs

CREATING A TIC

Land grants and devises made to multiple persons are construed to create estates in common, not in joint tenancy, unless expressly declared to be in joint tenancy. However, this presumption does not apply to mortgages, devises, or grants made in trust or to executors.

OTHER RELEVANT PROVISIONS

Partnership formation

A TIC, by itself, does not establish a partnership, even if the co-owners share profits made by using the property.

Statutory section 500.19 amended 1994; § 323A.0202 enacted 1997.

[Minn. Stat. §§ 323A.0202; 500.19 \(2017\)](#)

Minnesota, State TIC Securities

RELEVANT STATE SECURITIES LAWS

No specifically relevant provisions were located.

However, the Minnesota Uniform Securities Act defines "security" to include a "fractional undivided interest in oil, gas, or other mineral rights." An issuer of fractional undivided interests in an oil, gas, or other mineral lease, or in production payments, is the "owner of an interest in the lease or in payments out of production under a lease, right, or royalty . . . that creates fractional interests" for sale purposes.

NO REGISTRATION IN BENEFICIARY FORM

Individuals whose security registration shows ownership as tenants in common may not obtain registration in beneficiary form. Multiple owners of a security registered in beneficiary form hold as joint tenants, tenants by the entireties, or owners of community property held in survivorship form, not as tenants in common.

Statutory section 524.6-302 enacted 1992; § 80A.41 amended 2013.

[Minn. Stat. §§ 80A.41, 524.6-302 \(2017\)](#)

Minnesota, TIC Ownership

TIC OWNERSHIP LIMITATIONS

Liability to cotenants

A tenant in common entitled to exclusive occupancy is liable to his or her cotenants for any injury to the premises occasioned by the occupant's misconduct. The other tenants in common may have their remedy by action, jointly or severally.

The court must apportion and divide joint damages recovered by tenants in common among them according to their rights.

Action for waste

If a tenant in common of real property commits waste, any person injured by the waste may bring an action, and may receive a judgment for

- treble damages;
- forfeiture of the offending party's estate; and
- eviction from the property.

However, the court may award forfeiture and eviction only in favor of the person entitled to the reversion against the tenant in possession, if

- the injury is equal to the tenant's estate's value or unexpired term; or
- the injury was "done in malice."

TIC OWNERSHIP RIGHTS

Action for partition or sale

If multiple persons have real property interests as tenants in common, and one or more has an "estate of inheritance or for life or for years," one or more of the tenants may bring an action against the others for

- a partition according to the parties' rights and interests; or
- a sale of all or part of the property, if a partition would cause "great prejudice to the owners."

If a tenant's estate for life or for years in all or part of the property existed at the time of the sale order, and the person entitled to it has been made a party, that estate may first be "set off out of any part of the property, and a sale made of such part subject to such estate." However, if the court finds that the estate should be sold, it may order the sale.

Action for trespass

While one cotenant occupies the estate, that cotenant has the same remedy against one who trespasses on or otherwise injures the premises as if the cotenant held the property under a lease. That cotenant and all other tenants in common may recover the damages they have sustained by the same trespass or injury.

Action against a cotenant for rents and profits

One tenant in common may bring an action against a cotenant for receiving more than his or her just share of the estate's rents and profits.

Action against a cotenant for denial of right

In an action by a tenant in common against a cotenant, the plaintiff must show evidence

- of the plaintiff's right; and
- that the defendant either denied the plaintiff's right or did an act amounting to a denial.

Registration rights

Tenants in common must join in a registration application.

OTHER INCIDENTS OF OWNERSHIP

Homestead exemptions

In the determining "property taxes payable," as used to determine a homestead exemption, if a homestead is owned by multiple persons as tenants in common, the tenants must determine among them which tenant may claim the property taxes payable on the homestead. If they are unable to agree, the commissioner of revenue makes the final decision.

Real estate education, research and recovery fund

In the context of claims for recovery or accelerated claims payments under the Minnesota's "real estate education, research and recovery fund," tenants in common are deemed to be a single claimant.

Spousal rights

All property acquired by either spouse after marriage, but and before a dissolution valuation date, is presumed to be "marital property," whether title is held individually or by the spouses in a form of

co-ownership such as a TIC. The marital-property presumption is overcome by showing that the property is not marital property.

Contractor recovery fund

Tenants in common are treated as a single owner in the context of the contractor recovery fund.

Mortgage foreclosures

A mortgage foreclosure sale by advertisement pursuant to a power of sale contained in a recorded mortgage is valid and effective, against numerous objections, including the objection that only one tenant foreclosed a mortgage owned by tenants in common.

Statutory section 558.01 enacted 1927; §§ 558.13 and 557.06 enacted 1986; §§ 508.03, 559.05, and 561.17 amended 1986; § 518.003 amended 2008; § 82.86 renumbered and amended 2009; § 326B.89 amended 2017; § 582.25 amended 2015; § 290A.03 amended 2017; § 558.25 amended 1986.

[Minn. Stat. §§ 82.86, subs. 7, 8b; 290A.03, subd. 13; 326B.89; 508.03; 518.003, subd. 3b; 557.06; 558.01, .13, .25; 559.05; 561.17; 582.25 \(2017\)](#)

Minnesota, TIC Sale or Transfer

GENERAL SALE AND TRANSFER PROVISIONS

No specifically relevant provisions were located.

OTHER RELEVANT PROVISIONS

Real estate disclosures exception

Minnesota's real estate seller disclosure requirements do not apply to a transfer from one cotenant to one or more other cotenants.

Statutory section enacted 2002.

[Minn. Stat. § 513.54 \(2017\)](#)

Mississippi

Mississippi, Nonsecuritized TICs

CREATING A TIC

Land conveyances or devises made to multiple persons, including to a husband and wife, are deemed to create estates in common, unless it "manifestly appears" from the instrument's "tenor" that the parties intended to create a joint tenancy or tenancy in the entirety with survivorship rights.

OTHER RELEVANT PROVISIONS

Partnership formation

A TIC, by itself, does not establish a partnership, even if the co-owners share profits made by using the property.

Statutory section 89-1-7 amended 1993; § 79-13-202 enacted 2004.

Miss. Code §§ 79-13-202(c)(1); 89-1-7 (LexisNexis 2018)

Mississippi, State TIC Securities

RELEVANT STATE SECURITIES LAWS

No specifically relevant provisions were located.

However, effective January 1, 2010, the Mississippi Uniform Securities Act defines "security" to include a "fractional undivided interest in oil, gas, or other mineral rights." An issuer of fractional undivided interests in an oil, gas, or other mineral lease, or in production payments, is the "owner of an interest in the lease or in payments out of production under a lease, right, or royalty . . . that creates fractional interests" for sale purposes.

NO REGISTRATION IN BENEFICIARY FORM

Individuals whose security registration shows ownership as tenants in common may not obtain registration in beneficiary form. Multiple owners of a security registered in beneficiary form, hold as joint tenants, tenants by the entireties, or owners of community property held in survivorship form, not as tenants in common.

Statutory section 91-21-5 enacted 1997; § 75-71-102 enacted 2009.

Miss. Code §§ 75-71-102; 91-21-5 (LexisNexis 2018)

[Mississippi, TIC Ownership](#)

TIC OWNERSHIP LIMITATIONS

No specifically relevant provisions were located.

TIC OWNERSHIP RIGHTS

Action for partition or sale

Tenants in common and other co-owners may

- agree to partition land by a recorded written agreement, containing a description of the part allotted to each; or
- bind themselves by written agreement to submit the partition to arbitration.

Tenants in common or other co-owners may have the property partitioned by court judgment.

Any mortgage or other lien executed by a tenant in common remains in force only on that cotenant's share after partition, but this does not prevent the mortgage or lien holder from "asserting claim to owelty awarded to such cotenant."

If the partition was in kind, any tenant in common or other co-owner is entitled to a new partition within one year after the first partition, provided he or she can show that

- at the time of the partition, the co-owner was absent from, or a nonresident of, the state;
- he or she did not receive any notice or knowledge of the partition action;
- the first partition was unfair, unjust or fraudulent; and
- an affidavit shows "at least one credible person to the same effect."

If satisfied, the court may award a new partition.

If the premises have been sold and purchased by any of the co-owners, a nonresident or absent tenant may set aside the sale at any time within one year if he or she can show that it was unfairly made and fraudulent.

Action against a cotenant

If a tenant in common brings an action against a co-tenant, the defendant may admit the plaintiff's right to a specified undivided share, but deny any "actual ouster" of the plaintiff from the property. If, at trial, it appears that the defendant is a tenant in common or other co-owner and actual ouster is not proved, then the plaintiff will be involuntarily dismissed with costs. However, if the court finds either that the defendant is not a tenant in common or other co-owner or that an actual ouster has taken place, then the plaintiff will have a judgment for the recovery of possession and costs.

OTHER INCIDENTS OF OWNERSHIP

Homestead exemptions

In the context of homestead exemptions, the term "ownership" includes a TIC, among other ownership forms, and terms such as "joint owner" or "joint tenant" include a tenant in common, unless the context clearly indicates a different meaning. A "homestead" includes, among other things, the dwelling and eligible land owned by multiple persons if the group holds an estate in common, as long as the several owners' title is "of the same class."

Subject to certain specified exceptions, a dwelling house and land that a person or family group owns as an estate in common to whom an exemption has been allowed on another home in the state is generally excluded from the definition of "homestead" to the extent of such person's interest.

Forest Resources Development Program

In the context of the state's Forest Resources Development Program, only one owner of land owned in joint tenancy or TIC may apply for or receive cost-share assistance. If a joint tenant or tenant in common applies, he or she must not have any knowledge of an application that has been filed for cost-share assistance to be used on the land described in the application.

Municipal electric power

A municipality may operate and maintain an undivided interest as a tenant in common in a project with other persons or entities engaged in the generation, transmission or distribution of electric power and energy, provided certain requirements are met.

Promotional devices

No "sweepstakes, lodging, certificate, gift, award, premium, discount, drawing, prize or display" may be used as a promotional device for any real property interest by TIC or any other means without the disclosures required by § 75-24-101.

Statutory sections 11-21-39, and 11-21-45 amended 1942; §§ 49-19-223 and 49-19-205 enacted 1974; § 77-5-707 amended 1981; § 75-24-101 enacted 1987; §§ 11-19-85 and 11-21-3 amended 1991; § 27-33-21 amended 2004; § 27-33-17 amended 2010; § 11-21-1 amended 2009; § 27-33-19 amended 2013.

Miss. Code §§ 11-19-85; 11-21-1, -3, -39, -45; 27-33-17, -19, -21; 49-19-205(c), -223(1); 75-24-101; 77-5-707 (LexisNexis 2018)

Mississippi, TIC Sale or Transfer

No specifically relevant provisions were located.

Missouri

Missouri, Nonsecuritized TICs

CREATING A TIC

A real estate interest granted or devised to two or more persons, other than executors and trustees or a husband and wife, is a TIC, unless the grant or devise expressly declares the interest to be a joint tenancy.

OTHER RELEVANT PROVISIONS

Partnership formation

A TIC, by itself, does not establish a partnership, even if the co-owners share profits made by using the property.

Statutory section 442.450 enacted 1939; § 358.070 enacted 1949.

[Mo. Rev. Stat. §§ 358.070\(2\), 442.450 \(2018\)](#)

Missouri, State TIC Securities

RELEVANT STATE SECURITIES LAWS

No specifically relevant provisions were located.

However, the Missouri Securities Act of 2003 defines "security" to include a "fractional undivided interest in oil, gas, or other mineral rights." An issuer of fractional undivided interests in an oil, gas, or other mineral lease, or in production payments, is the "owner of an interest in the lease or in payments out of production . . . that creates fractional interests" for sale purposes.

NO REGISTRATION IN BENEFICIARY FORM

No specifically relevant provisions were located.

Statutory section enacted 2003.

[Mo. Rev. Stat. § 409.1-102 \(2018\)](#)

Missouri, TIC Ownership

TIC OWNERSHIP LIMITATIONS

Action for waste

If a tenant in common commits waste, he or she is liable to his or her cotenants, jointly or severally, for any damages.

TIC OWNERSHIP RIGHTS

Action for partition or sale

If "lands, tenements or hereditaments" are held in TIC (or otherwise co-owned), any one or more of the interested parties may file a petition for the "admeasurement and setting off of any dower interest" and for the partition of the remainder, if it can be done without "great prejudice" to the interested parties. If not, the premises will be sold and the proceeds divided among all of the parties, according to their rights and interests.

Joint ejectment suits

Two or more tenants in common may join in an ejectment action for recovery of an estate they own in common.

If a tenant in common brings an action against his or her cotenant, the plaintiff must show that the defendant

- actually ousted him; or
- did some act that amounted to a total denial of his rights as a cotenant.

OTHER INCIDENTS OF OWNERSHIP

Community improvement districts

In the context of Missouri's community improvement district provisions, the term "per capita" means "one head count applied to each individual, entity or group" with fee ownership of real property within the district, whether the individual, entity or group owns one or more parcels of real property in the district as tenants in common or in another form of co-ownership, except that with respect to certain condominiums "per capita" means "one head count applied to the applicable unit owners' association."

Weed or trash abatement

If weeds or trash grow or accumulate in violation of an ordinance, the owner of the ground, or in case of a TIC or other co-ownership, each owner, is liable for abatement.

Senior citizens' property tax relief

As used in Missouri's senior citizens' property tax relief laws, property may be "owned" by one or more tenants in common or other co-owners.

Missouri homestead preservation

As used in the Missouri Homestead Preservation Act, "eligible owner" means an individual property owner who is at least 65 years old or disabled and who had an income no greater than the maximum upper limit in the year before completing an application under the act. In the case of ownership by TIC by unmarried persons, the owners are "eligible" if

- each person with an ownership interest individually satisfies the eligibility requirements; and
- the combined income of all individuals with an interest in the property is no greater than the maximum upper limit.

If any individual owner does not satisfy the eligibility requirements or if the combined income exceeds the maximum upper limit, then all individuals with an ownership interest in the property are ineligible owners, even if an individual meets the eligibility requirements.

Spousal rights

Property acquired by either spouse after marriage and before a legal separation or marriage dissolution decree is presumed to be marital property, whether title is held individually or by the spouses in some form of co-ownership, including, among others, a TIC. This marital property presumption is overcome by showing that the property was acquired by a method listed in § 452.330(2).

Statutory sections 524.030, 524.090, 528.030, and 537.460 enacted 1939; § 452.330 amended 1998; § 67.1401 amended 2007; §§ 135.010 and 137.106 amended 2008; § 71.285 amended 2013.

[Mo. Rev. Stat. §§ 67.1401\(12\); 71.285\(1\); 135.010\(4\); 137.106\(4\)\(b\); 452.330\(3\); 524.030, .090; 528.030; 537.460 \(2018\)](#)

Missouri, TIC Sale or Transfer

GENERAL SALE AND TRANSFER PROVISIONS

No relevant provisions were located.

OTHER RELEVANT PROVISIONS

Any person or persons owning real estate or a real estate interest may effectively convey the property or interest by "naming himself or themselves and another person or persons, or one or more of themselves and another person or persons, as grantees." Similarly, any two or more persons owning real estate or a real estate interest may effectively convey the property by "naming one, or more than one, or all such persons as grantees." Either conveyance has the same effect, regarding whether it creates a TIC, as if it were a conveyance from a stranger.

Statutory section enacted 1953.

[Mo. Rev. Stat. § 442.025 \(2018\)](#)

Montana

Montana, Nonsecuritized TICs

CREATING A TIC

If the names and addresses of more than one owner are listed on a title certificate, a joint ownership with right of survivorship, not a TIC, is presumed.

OTHER RELEVANT PROVISIONS

Partnership formation

A TIC does not by itself establish a partnership, even if the co-owners share profits from the property's use.

Beneficiary deeds

A beneficiary deed may designate multiple grantees who take title as tenants in common.

Statutory section 35-10-202 amended 1993; § 61-3-202 amended 2005; § 72-6-121 amended 2011.

[Mont. Code §§ 35-10-202\(3\)\(a\), 61-3-202\(4\), 72-6-121\(2\) \(2017\)](#)

Montana, State TIC Securities

RELEVANT STATE SECURITIES LAWS

No specifically relevant state securities laws were located. [H.B. 256, 2007 Leg., Reg. Sess. \(Mont. 2007\)](#), which would have included "undivided fractionalized long-term estates in real property" in the definition of "real estate," but excluded "real estate" from the definition of "security," did *not* pass into law.

NO REGISTRATION IN BENEFICIARY FORM

Individuals whose security registration shows multiple ownership as tenants in common may not obtain registration in beneficiary form. Multiple owners of a security registered in beneficiary form must hold as joint tenants, tenants by the entireties, or owners of community property held in survivorship form, not as tenants in common.

Statutory section enacted 1993.

[Mont. Code § 72-6-302 \(2017\)](#)

Montana, TIC Ownership

TIC OWNERSHIP LIMITATIONS

Liability to cotenants

If a person exercises exclusive ownership over or takes away, destroys, injures or abuses property held in a TIC, the aggrieved party may bring an action in the same manner as if the TIC did not exist. One cotenant or any number of cotenants acting together

- may enter the common property at any point not occupied by the nonjoining cotenants and occupy the property without waste; and
- in the case of mining property, may mine the property "in a minerlike manner," provided they pay their own expenses and are subject to accounting to the nonjoining cotenant for any net profits. Liens incurred during the mining attach only to the working tenants'

undivided interests. The cotenant not joining in the mining operation may receive a proportionate share of all ore "on the dump" upon payment of its actual mining costs.

Action for waste

If a tenant in common commits waste on the real property, an aggrieved person may bring an action against that person and receive treble damages.

Construction lien liability

In the construction lien context, a contracting owner means a person who owns a real estate interest and who enters into a contract for a real estate improvement. Agency is presumed unless there is clear and convincing evidence to the contrary between tenants in common, among others.

TIC OWNERSHIP RIGHTS

Action by one tenant in common

A tenant in common, or any number less than all, may bring or defend a civil action or proceeding to enforce or protect the party's rights.

Action for partition or sale

Several cotenants that possess real property as tenants in common, provided one or more has an estate of inheritance or for life or for years, may bring an action for partition and for sale of all or part of the property if a partition would be a "great prejudice to the owners." No person other than a joint tenant or a tenant in common may be a plaintiff in the action, and the summons must be directed to all the joint tenants and tenants in common, in addition to other specified persons. If, under certain circumstances specified by statute, the court determines that a sale is in the owners' best interests, a tenant in common with improvements erected on a town or city lot or subdivision included in the sale has the prior right to purchase the property at the appraised value.

The court must allot each party's share and locate each cotenant's share to "embrace" each cotenant's improvements on the property. The value of improvements made by the tenants is excluded from the valuation in making allotments, and the land must be valued without regard to the improvements.

If one or more of the tenants in common has sold to another person a specific tract out of land held in common and has executed a deed purporting to convey the whole title to that tract to the purchaser in fee, that land must be allotted to the purchaser if it can be done without material injury to the other cotenants who may not have joined in the conveyance.

If any tenant in common has necessarily prosecuted or defended any other actions or proceedings (a) to protect, confirm, or perfect the title, (b) to set the boundaries, or (c) to survey the partitioned property, the court must allow the parties who have paid the litigation expenses all the expenses necessarily incurred, except counsel fees, that have accrued to the benefit of the other tenants in common, with interest. Those expenses must be included in the final judgment and are a lien on each tenant's share in proportion to his or her interest.

Uniform Partition of Heirs Property Act

Montana's Uniform Partition of Heirs Property Act applies to partition actions filed on or after October 1, 2013. Pursuant to that act, in an action to partition real property, the court must determine whether the property is heirs property. If the court determines that the property is heirs property, the property must be partitioned under part 4 of chapter 70-29, unless all of the cotenants agree otherwise.

In the context of Montana's Uniform Partition of Heirs Property Act, the term "heirs property" means real property held in tenancy in common that satisfies all of the following requirements:

- there is no agreement in a record binding all the cotenants that governs the property's partition;
- one or more of the cotenants acquired title from a relative; and

- either (i) 20 percent or more of the interests are held by cotenants who are relatives; (ii) 20 percent or more of the interests are held by an individual who acquired title from a relative; or (iii) 20 percent or more of the cotenants are relatives.

Action against a cotenant

One tenant in common or joint tenant may sue his or her cotenant.

OTHER INCIDENTS OF OWNERSHIP

Water rights

If a water ditch used for irrigating purposes is owned by tenants in common and there is a dispute between the tenants regarding the use and division of the water, any tenant may bring an action to determine the parties' rights to use the water. A water commissioner divides the water between the tenants in proportion to their respective rights. The court sets the commissioner's compensation and employment term and apportions the compensation amount among the tenants in common according to their rights and interests in the ditch.

Statutory sections 70-29-101, 70-29-104, 70-29-110, 70-29-206, 70-29-207 and 85-5-403 amended 1947; § 85-5-408 amended 1997; § 71-3-522 amended 2007; §§ 70-1-310, 70-16-106, 70-19-202, 70-29-208, 70-29-221, 85-5-401, and 85-5-405 amended 2009; §§ 70-29-402 and 70-29-403 enacted 2013.

[Mont. Code §§ 70-1-310; 70-16-106; 70-19-202; 70-29-101, -104, -110, -206, -207, -208, -221, -402, -403; 71-3-522\(4\)\(a\); 85-5-401, -403, -405, -408 \(2017\)](#)

Montana, TIC Sale or Transfer

GENERAL SALE AND TRANSFER PROVISIONS

No relevant provisions were located.

OTHER RELEVANT PROVISIONS

Termination of estate upon death

Generally, the interest of a decedent in property held in joint tenancy terminates upon death. However, in this context, a "decedent" is one who dies leaving no property that requires the appointment of a personal representative and who was the owner of either a life estate that terminated at death or property held as a joint tenant, but not as a tenant in common.

Statutory section 72-16-501 amended 2009; § 72-16-502 amended 2000.

[Mont. Code §§ 72-16-501, -502\(2\) \(2017\)](#)

Nebraska

Nebraska, Nonsecuritized TICs

CREATING A TIC

No specifically relevant provisions were located.

OTHER RELEVANT PROVISIONS

Partnership formation

A TIC does not by itself create a partnership, even if the co-owners share profits made by using the property.

Statutory section enacted 1997.

[Neb. Rev. Stat. § 67-410 \(2018\)](#)

Nebraska, State TIC Securities

RELEVANT STATE SECURITIES LAWS

No specifically relevant provisions were located.

NO REGISTRATION IN BENEFICIARY FORM

Individuals whose security registration shows multiple ownership as tenants in common may not obtain registration in beneficiary form. Multiple owners of a security registered in beneficiary form hold as joint tenants, tenants by the entireties or owners of community property held in survivorship form, not as tenants in common.

Statutory section enacted 1993.

[Neb. Rev. Stat. § 30-2735 \(2018\)](#)

Nebraska, TIC Ownership

TIC OWNERSHIP LIMITATIONS

Liability in construction lien context

When determining whether an owner is a "contracting owner" in the construction lien context, agency is presumed between tenants in common unless there is clear and convincing evidence to the contrary.

TIC OWNERSHIP RIGHTS

Action for partition or sale

A partition complaint must describe the property and all known joint owners' interests and estates. All tenants in common, joint tenants, or lessees of any estate or any mineral, coal, petroleum, or gas rights, "may be compelled to make or suffer partition" of the estate, as prescribed by statute. Between the parties themselves, a partition judgment is conclusive evidence of title, subject only to proof of a paramount or independent title.

Action against a cotenant

In an action by a tenant in common of real property against a cotenant, the plaintiff must show

- the requirements of § 25-2124; and
- that the defendant either denies the plaintiff's right or performed an act that amounted to a denial.

OTHER INCIDENTS OF OWNERSHIP

Sanitary and improvement districts

For sanitary and improvement district election purposes, if tenants in common hold land jointly, only one person may cast that property's vote.

Homestead exemptions

In the context of Nebraska's homestead exemption, "owner" includes a person who is one of the homestead's joint tenants or tenants in common.

Irrigation Districts

In the case of land owned or leased by tenants in common, each tenant who is a Nebraska resident is an elector and entitled to vote if the total acreage owned or leased per tenant is equal to or exceeds the applicable minimum acreage requirements.

Statutory sections 25-2126 and 25-21,107 amended 1929; § 52-128 enacted 1981; § 46-102 amended 2015; § 31-735 amended 2016. Regulation amended 2013.

[Neb. Rev. Stat. §§ 25-2126, -21,107; 31-735\(2\); 46-102; 52-128 \(2018\); 350 Neb. Admin. Code § 45-002.12 \(2018\)](#)

Nebraska, TIC Sale or Transfer

GENERAL SALE AND TRANSFER PROVISIONS

No specifically relevant provisions were located.

OTHER RELEVANT PROVISIONS

Documentary stamp tax

Partition deeds between tenants in common or joint tenants are exempt from the documentary stamp tax. However, for this exemption to apply, the tenants in common or joint tenants must each take a part of the jointly held real property. Property exchanges between persons who do not hold all of the real property exchanged as joint tenants or tenants in common do not receive the exemption.

Identity of grantor and grantee

A person or persons owning property may effectively convey the property by naming himself, herself, or themselves and another person or persons, as grantees. The conveyance has the same effect in creating a tenancy in common as if it were a conveyance from a stranger to the persons named as grantees in the conveyance.

Transfer upon death

A property conveyance made to multiple persons as tenants in common for life or for a term terminable at death, with an express remainder to the survivor (or, upon all life tenants' deaths, to another person), generally creates cross limitations among the tenants in common. Therefore, the share of the one first dying passes to his cotenants, and the shares of the second and others dying are similarly treated until the property is "limited to pass as a whole to the remainderman."

"Joint owner," as used in the Nebraska Uniform Real Property Transfer on Death Act, does *not* include a tenant in common without survivorship rights.

Statutory section 76-117 enacted 1941; § 76-118 amended 1980; § 76-3402 amended 2013. Regulation amended 2005.

[Neb. Rev. Stat. §§ 76-117, -118, -3402 \(2018\); 350 Neb. Admin. Code § 52-003.02H \(2018\)](#)

Nevada

Nevada, Nonsecuritized TICs

CREATING A TIC

Every real property interest granted or devised to multiple persons, other than executors and trustees, is deemed to be a TIC, unless expressly declared to be a joint tenancy.

A TIC may be created by a single conveyance from a married couple holding title as joint tenants to themselves, to themselves and others, or to one of them and others, provided the conveyance expressly declares that the grantees are tenants in common. Similarly, an estate as tenants in common may be created by conveyance

- from a married couple to themselves or to themselves and others; or
- from a sole owner to himself and others.

OTHER RELEVANT PROVISIONS

Partnership formation

A TIC does not by itself establish or form a partnership, even if the co-owners share profits made by using the property.

Statutory section 87.070 amended 1979; § 87.4322 amended 2005; § 111.063 amended 2017; § 111.064 amended 2017; § 111.060 amended 1929.

[Nev. Rev. Stat. §§ 87.070, .4322; 111.060, .063, .064 \(2017\)](#)

Nevada, State TIC Securities

RELEVANT STATE SECURITIES LAWS

No specifically relevant provisions were located.

However, Nevada securities laws define "security" to include a "fractional undivided interest in an oil, gas or other mineral lease or in payments out of production of such a lease." An issuer of fractional undivided interests in an oil, gas, or other mineral lease, or in production payments, is the "owner of an interest in the lease or in payments out of such production . . . who creates fractional interests" for sale purposes.

NO REGISTRATION IN BENEFICIARY FORM

Section 111.560, which previously provided that natural persons whose security registration showed multiple ownership as tenants in common could not obtain registration in beneficiary form, was repealed in 2011.

Statutory section 90.255 amended 1989; § 90.295 amended 2009; § 111.560 repealed 2011.

[Nev. Rev. Stat. §§ 90.255, .295 \(2017\)](#)

Nevada, TIC Ownership

TIC OWNERSHIP LIMITATIONS

Action for waste

If a tenant in common of real property commits waste, any aggrieved person may bring an action and may receive treble damages.

TIC OWNERSHIP RIGHTS

Action for partition or sale

Persons that possess real property as tenants in common, if at least one has an estate of inheritance, for life or for years, may bring an action for a partial partition and sale, provided a partition would be a "great prejudice to the owners" or the owners consent to the sale. The summons must be directed to all the joint tenants and tenants in common, in addition to other specified persons.

If any tenant in common has necessarily prosecuted or defended any other actions or proceedings (a) to protect, confirm, or perfect the title, (b) to set the boundaries or (c) to survey the partitioned property, the court must allow the parties who have paid the litigation expenses all the expenses necessarily incurred, except counsel fees, that have accrued to the other tenants' benefit, with interest. Those expenses must be included in the final judgment and are a lien on each tenant's share in proportion to his or her interest.

Uniform Partition of Heirs Property Act

Nevada's Uniform Partition of Heirs Property Act was enacted in 2011. Pursuant to that act, in an action to partition real property, the court must determine whether the property is heirs property. If the court determines that the property is heirs property, the property must be partitioned under §§ 39.600 to 39.705, unless all of the cotenants agree otherwise.

In the context of Nevada's Uniform Partition of Heirs Property Act, the term "heirs property" means real property held in tenancy in common that satisfies all of the following requirements:

- there is no agreement in a record binding all the cotenants that governs the property's partition;
- one or more of the cotenants acquired title from a relative; and
- either (i) 20 percent or more of the interests are held by cotenants who are relatives; (ii) 20 percent or more of the interests are held by an individual who acquired title from a relative; or (iii) 20 percent or more of the cotenants are relatives.

OTHER INCIDENTS OF OWNERSHIP

Homestead rights

Tenants in common may "declare for homestead rights" on their land estates. They may "hold and enjoy" those homestead rights and privileges, subject to their cotenants' rights to enforce a partition of the common property.

Mining claims

In an action to partition a mining claim among tenants in common or other co-owners, the court may direct the master to divide the claim as provided by statute. Two or more of the tenants in common or co-owners may unite together for the purposes of the division, and all who do not unite or give notice of a separate action are deemed to have united.

Agricultural use assessments

An application for an agricultural use assessment may be signed by the owner of the agricultural real property, including tenants in common or joint tenants.

Open Space Assessments

An application for an open-space use assessment may be signed by the owner of the open-space real property, including tenants in common or joint tenants.

Homeowners Associations

If a property owner owns property that is: (a) subject to a covenant, condition or restriction recorded against the property before July 1, 2017; and (b) not subject to the provisions of chapter 116 of NRS; and owns a fractional interest in additional property as a tenant in common along with one or more other such property owners, any property owner representing at least a majority of the ownership of the additional property may act on behalf of all the property owners who own the additional property.

Statutory sections 39.170 and 40.150 enacted 1911; § 115.030 amended 1943; §§ 39.010, 39.500, and 39.530 amended 1985; §§ 361A.110 and 361A.190 amended 1993; §§ 39.630 and 39.655 enacted 2011; § 271.257 added 2017.

[Nev. Rev. Stat. §§ 39.010, .170, .500, .530, .630, .655; 40.150; 115.030; 361A.110, .190; 271.257 \(2017\)](#)

Nevada, TIC Sale or Transfer

GENERAL SALE AND TRANSFER PROVISIONS

No specifically applicable provisions were located.

OTHER RELEVANT PROVISIONS

Real estate transfer taxes

The real estate transfer taxes imposed by §§ 375.020, 375.023, and 375.026 do not apply to a title transfer without consideration from one joint tenant or tenant in common to one or more remaining joint tenants or tenants in common.

Nevada regulations also provide that the taxes generally do not apply to partition deeds, unless the parties hold title as joint tenants or tenants in common, in which case the tax is applicable unless another exemption applies.

Statutory section amended 2017. Regulation amended 2004.

[Nev. Rev. Stat. § 375.090 \(2017\)](#); [Nev. Admin. Code § 375.170 \(2018\)](#)

New Hampshire

New Hampshire, Nonsecuritized TICs

CREATING A TIC

A real estate conveyance or devise to multiple persons creates a TIC, unless the document expressly provides that the estate is to be held as joint tenants or contains other words that clearly express an intent to create a joint tenancy.

OTHER RELEVANT PROVISIONS

Partnership formation

A TIC, by itself, does not establish a partnership, even if the co-owners share profits made by using the property.

Statutory section 477:18 amended 1959; § 304-A:7 enacted 1973.

[N.H. Rev. Stat. §§ 304-A:7; 477:18 \(2018\)](#)

New Hampshire, State TIC Securities

RELEVANT STATE SECURITIES LAWS

No specifically relevant provisions were located.

NO REGISTRATION IN BENEFICIARY FORM

Individuals whose security registration shows multiple ownership as tenants in common may not obtain registration in beneficiary form. Multiple owners of a security registered in beneficiary form hold as joint tenants, tenants by the entireties, or owners of community property held in survivorship form, not as tenants in common.

Statutory section enacted 1997.

[N.H. Rev. Stat. § 563-C:3 \(2018\)](#)

New Hampshire, TIC Ownership

TIC OWNERSHIP LIMITATIONS

No relevant provisions were located.

TIC OWNERSHIP RIGHTS

Action for partition

A person who owns an undivided interest or estate in real property that is not subject to redemption is entitled to a partition of the property.

Action against a cotenant

One cotenant of real estate may recover "for his share of any trees, fixtures or other part of the estate destroyed, severed or carried away by the other." Also, one cotenant of real estate may recover from another who takes income from the real estate without the cotenant's consent and wrongfully withholds it.

OTHER INCIDENTS OF OWNERSHIP

Property taxes

If a tenant in common or joint tenant in possession of the real estate specified in §§ 73:17 and :18 "refuses to be taxed beyond the shares claimed by him," and if no other person is in possession, the other shares are "taxed with such description of the land as it may be readily known by, the name of the person in possession, and the names of the owners of the shares for which he refuses to be taxed, if such owners are known."

Homeowners' property tax relief

As used in the state's laws regarding its low and moderate income homeowners' property tax relief, "homestead" means the dwelling owned by a claimant or, if a multi-unit dwelling, the portion owned and used as the claimant's principal residence. In this context, "owned" includes one or more joint tenants or tenants in common, among others.

If multiple persons own a homestead as joint tenants or tenants in common, and one or more of the co-owners do not principally reside at the homestead, the tax relief applies to the share of the homestead value that reflects the claimant's ownership percentage. Only one claim may be filed for each single homestead.

Manufactured-housing park sale notification exceptions

The owner of a manufactured housing park is not required to give a presale notice to tenants if the sale or transfer is between joint tenants or tenants in common, among others.

Mill repairs

If a "mill, milldam or flume" owned by tenants in common (or other co-owners) requires "necessary repairs," the owners must make the repairs in proportion to their interests in the structures.

Timber tax assessment

In the context of determining timber tax and effective July 1, 2012, "owner" includes, among others, a tenant in common that holds title to the property. Any one or more of the tenants in common may sign an intent to cut. However, the applicant must have notified the non-signing tenants in common by certified mail of his or her intent at least 30 days before cutting. Also, a bond or surety must be filed to secure payment of the yield tax if a tenant in common does not sign or give a power of attorney to sign a notice of intent to cut.

Statutory section 73:19 amended 1949; § 205-A:23 enacted 1987; § 482:23 enacted 1989; §§ 198:56 and 547-C:1 enacted 2001; § 198:57 amended 2008; § 79:1 amended 2014; §§ 507:2 and 507:3 history unknown.

[N.H. Rev. Stat. §§ 73:19; 79:1; 198:56, :57\(V\); 205-A:23; 482:23; 507:2, :3; 547-C:1 \(2018\)](#)

New Hampshire, TIC Sale or Transfer

No specifically relevant provisions were located.

New Jersey

New Jersey, Nonsecuritized TICs

CREATING A TIC

Generally, an estate is not a joint tenancy, unless the grant or devise expressly states that the parties intended to create a joint tenancy, not a TIC. However, no instrument creating a property interest on the part of a husband and wife is construed to create a TIC or a joint tenancy unless "it is expressed therein or manifestly appears from the tenor of the instrument that it was intended to create a tenancy in common or joint tenancy."

OTHER RELEVANT PROVISIONS

Partnership formation

A TIC, by itself, does not establish a partnership, even if the co-owners share profits made by using the property.

Statutory section 46:3-17.3 enacted 1987; § 46:3-17 enacted 1989; § 42:1A-10(c)(1) enacted 2000.

N.J. Stat. §§ 42:1A-10(c)(1); 46:3-17, -17.3 (2018)

New Jersey, State TIC Securities

RELEVANT STATE SECURITIES LAWS

No specifically relevant provisions were located.

However, the New Jersey "Uniform Securities Law (1997)" explicitly references some real estate interests by defining "security" to include a "certificate of interest or participation in any profit-sharing agreement, including, but not limited to, certificates of interest or participation in real or personal property."

NO REGISTRATION IN BENEFICIARY FORM

Individuals whose security registration shows multiple ownership as tenants in common may not obtain registration in beneficiary form. Multiple owners of a security registered in beneficiary form

hold as joint tenants, tenants by the entireties, or owners of community property held in survivorship form, not tenants in common.

Statutory section 3B:30-3 enacted 1995; § 49:3-49 amended 2015.

N.J. Stat. §§ 3B:30-3; 49:3-49 (2018)

New Jersey, TIC Ownership

TIC OWNERSHIP LIMITATIONS

Action for waste

If multiple persons hold property as tenants in common or joint tenants, and one commits waste, the others have an action against the person committing the waste. Upon judgment, the defendant may elect either

- to have the common property partitioned; or
- to give security, as the court deems sufficient, not to commit additional waste.

If the defendant elects to have the property partitioned, the part assigned to him must include the wasted portion of the property. If the defendant does not elect to have the property partitioned or if the waste exceeds the value of his property share, the plaintiff may recover damages from the defendant.

TIC OWNERSHIP RIGHTS

Action for partition or sale

In a real estate partition action, the court may direct the sale of the property if it appears that a partition would cause great prejudice to the owners or interested persons.

OTHER INCIDENTS OF OWNERSHIP

Notice for municipal improvements

If real estate is held by tenants in common or other joint owners, the required notices regarding street and highway improvements may be served on any one tenant.

Veteran's deductions

If a veteran's deduction claimant and others hold, as joint tenants or tenants in common, title to property, the claimant's deduction may not exceed his or her proportionate share of the assessed property taxes. That proportionate share is deemed to be equal to that of each of the other tenants, unless the deed specifically provides unequal interests.

Property tax deductions

If a tax-deduction claimant holds title with others as tenants in common or as joint tenants, the claimant may not deduct an amount greater than his or her proportionate share of the assessed taxes. That proportionate share is equal to that of all of the other tenants, unless the conveyance provides for unequal interests, in which case the taxpayer's share of the property taxes is in proportion to the taxpayer's interest.

Homestead rebates or credits

A New Jersey resident is generally allowed a homestead rebate or credit equal to the amount "determined as a percentage of property taxes not in excess of \$10,000 paid by the claimant in that tax year on the claimant's homestead . . ." If multiple individuals hold title to a homestead as joint tenants or tenants in common, each individual is allowed the homestead rebate or credit related the individual's proportionate share of the property taxes. The individual's share of the property taxes equals that individual's share in the title. Title is presumed to be held in equal shares among all co-owners, but if the claimant shows that the title provides for unequal interests, that claimant's share of the property taxes paid is in proportion to the claimant's interest in the title.

Homestead property tax reimbursement

If an eligible claimant and others hold, as tenants in common, title to a homestead on which a homestead property tax reimbursement is claimed, the eligible claimant's reimbursement may not exceed his or her proportionate share of the assessed taxes. The proportionate share is deemed to be equal to that of each of the other tenants, unless it is shown that the interests are not equal, in which case the eligible claimant's proportionate share is as shown. This provision is not intended to preclude more than one tenant from claiming a homestead property tax reimbursement on the property, but no more than the equivalent of one full reimbursement for a property is allowed in any year. If the eligible claimants cannot agree as to the apportionment of the reimbursement, the reimbursement is apportioned among them in proportion to their interest.

Service on tenants in common

In taxation actions by municipalities, service on one of multiple tenants in common confers jurisdiction on all of the tenants in common.

Deduction if homestead is a unit of residential rental property

If multiple individuals hold title to a homestead as tenants in common, each individual is allowed a deduction only in relation to the individual's proportionate share of the property taxes. The proportionate share equals that of all other individuals who hold the title, unless the conveyance provides for unequal interests, in which case the property tax shares are in proportion to the taxpayers' interests.

Senior citizens' deductions

If the claimant and others hold title as tenants in common or joint tenants to a property for which a senior citizens' deduction is claimed, a claimant's deduction may not exceed his or her proportionate share of the assessed taxes. That proportionate share is deemed to be equal to that of each of the other tenants, unless it is shown that the interests are not equal, in which case the claimant's proportionate share is as shown. This provision does not preclude more than one tenant from claiming a deduction, but no more than the equivalent of one full deduction for a

property is allowed in any year. If the claimants cannot agree as to the apportionment, the deduction will be apportioned among them in proportion to their interests.

However, if title to a dwelling is held as tenants in common by a senior citizen and a veteran, each claimant is entitled to the full deduction, even if the aggregate deduction exceeds the maximum deduction allowed for the applicable year, as long as the deductions do not exceed each claimant's proportionate share of the total taxes assessed against the property.

Statutory sections 2A:56-2 and 2A:65-4 enacted 1951; § 54:8-5 amended 1953; §§ 54:4-8.18 and 54:4-8.46 amended 1989; § 54:4-8.72 enacted 1997; § 54:4-8.59 amended 2007; § 54A:3A-17 amended 2018; § 40:65-3 amended 2013. Regulation 18:14-3.2 and 18:14-3.5 amended 2017; r. 18:27-2.9 amended 2014.

N.J. Stat. §§ 2A:56-2, :65-4; 40:65-3; 54:4-8.18, .46, .59, .72; 54:8-5; 54A:3A-17 (2018); N.J. Admin. Code §§ 18:14-3.2, -3.5; :27-2.9 (LexisNexis 2018)

New Jersey, TIC Sale or Transfer

No specifically relevant provisions were located.

New Mexico

New Mexico, Nonsecuritized TICs

CREATING A TIC

Real estate interests granted or bequeathed to two or more persons (other than executors or trustees) are held in common, unless the grant or bequest clearly expresses that it is "held by both parties." In a real estate conveyance, the designation of two or more grantees "as joint tenants" means that the conveyance is not as tenants in common.

OTHER RELEVANT PROVISIONS

Partnership formation

A TIC does not by itself create a partnership, even if the co-owners share profits made by using the property.

Statutory section 47-1-15 amended 1953; § 47-1-35 amended 1947; § 54-1A-202 enacted 1996.

N.M. Stat. §§ 47-1-15, -35; 54-1A-202 (2017)

[New Mexico, State TIC Securities](#)

RELEVANT STATE SECURITIES LAWS

No specifically relevant provisions were located.

However, the New Mexico Uniform Securities Act defines "security" to include a "fractional undivided interest in oil, gas, or other mineral rights." An issuer of fractional undivided interests in an oil, gas, or other mineral lease, or in production payments, is the "owner of an interest in the lease or in payments out of production under a lease, right, or royalty . . . that creates fractional interests" for sale purposes.

NO REGISTRATION IN BENEFICIARY FORM

Individuals whose security registration shows multiple ownership as tenants in common may not obtain registration in beneficiary form. Multiple owners of a security registered in beneficiary form hold as joint tenants with survivorship rights, tenants by the entirety or owners of community property held in survivorship form, not as tenants in common.

Statutory section 45-6-302 enacted 1992; § 58-13C-102 amended 2009.

N.M. Stat. §§ 45-6-302; 58-13C-102 (2017)

[New Mexico, TIC Ownership](#)

TIC OWNERSHIP LIMITATIONS

No specifically relevant provisions were located.

TIC OWNERSHIP RIGHTS

Action for partition or sale

One or more persons interested in property owned in TIC may bring an action

- for division and partition of the premises according to the interested parties' rights; and
- for a sale, if partition would cause "great prejudice to the owners."

Action against a cotenant

A tenant in common bringing an action against a cotenant must prove "an actual ouster" or an equivalent act.

Quiet title actions

If more than ten persons hold or claim title to land as "tenants in common, coclaimants, joint tenants or coparceners," holding and claiming the land by adverse possession or otherwise, they may appoint a committee to bring and maintain an action against any parties claiming an adverse estate or interest in the property in order to

- determine the adverse claim;
- establish their title; or
- remove a cloud on the title.

The committee may be appointed by a written instrument that is executed by the persons holding or claiming title and acknowledged as required for other interests affecting real estate titles in New Mexico. The instrument must be filed at the time the action is brought, and the adjudication is binding on all persons participating in the committee's selection. Any persons claiming an interest or estate in the land as tenants in common or otherwise who do not participate in the committee's selection may be made defendants to the action.

Also, any two or more persons claiming an estate or interest in land under a "common source of title," including as tenants in common, may bring a united action against any person claiming an adverse estate or interest in the property, for the purpose of

- determining the adverse claim;
- establishing the "common source of title"; or
- removing a cloud on the title.

Uniform Partition of Heirs Property Act

New Mexico's Uniform Partition of Heirs Property Act was enacted in 2017. Pursuant to that Act, in an action to partition real property, the court must determine whether the property is heirs property. If the court determines that the property is heirs property, the property must be partitioned under N.M. Stat. ch. 42, art. 5, unless all of the cotenants agree otherwise.

Under the Act, the term "heirs property" means real property held in tenancy in common that satisfies all of the following requirements:

- there is no agreement in a record binding all the cotenants that governs the partition of the property;

- one or more of the cotenants acquired title from a relative, whether living or deceased; and
- any of the following applies: (i) 20 percent or more of the interests are held by cotenants who are relatives; (ii) 20 percent or more of the interests are held by an individual who acquired title from a relative, whether living or deceased; or (iii) 20 percent or more of the cotenants are relatives.

OTHER INCIDENTS OF OWNERSHIP

Spousal rights

Property acquired by a husband and wife as tenants in common, joint tenants or otherwise, is presumed to be community property unless it is "separate property," which includes, among other things, property designated as such by a written agreement between the spouses, including a deed concerning property held as joint tenants or tenants in common in which the property is designated as "separate property."

A spouse's separate debt must be satisfied as follows:

- first, from the debtor spouse's separate property, excluding that spouse's interest in property in which each spouse owns an undivided equal interest as a joint tenant or tenant in common;
- then, from the debtor spouse's one-half interest in community property or property in which each spouse owns an undivided equal interest as a joint tenant or tenant in common, excluding the spouses' residence; and
- finally, from the debtor spouse's interest in the residence, except as otherwise provided by statute.

Neither spouse's interest in community property or separate property is "liable" for other spouse's separate debt.

Community debts are satisfied as follows:

- first, from all community property and all property in which each spouse owns an equal, undivided interest as a joint tenant or tenant in common, excluding the spouses' residence; and
- then, from the spouses' residence, except as otherwise provided by statute.

If that property is not sufficient, only the separate property of the spouse who incurred the debt is "liable" for its satisfaction. If both spouses contracted or incurred the debt, both spouses' separate property is "jointly and severally liable."

Statutory section 40-3-8 amended 1990; §§ 40-3-10 and 40-3-11 amended 1995; §§ 42-4-8, 42-5-1, 42-6-3, 42-6-5, and 42-6-6 enacted 1907; N.M. Stat. ch. 42, art. 5 enacted 2017, effective Jan. 1, 2018.

N.M. Stat. §§ 40-3-8, -10, -11; 42-4-8; 42-5-1; 42-6-3, -5, -6 (2017); N.M. Stat. ch. 42, art. 5.

New Mexico, TIC Sale or Transfer

GENERAL SALE AND TRANSFER PROVISIONS

Joinder requirements

Except for purchase-money mortgages, spouses must join in all transfers, conveyances or mortgages of any community real property and separate real property the spouses own in joint tenancy or TIC. The spouses must also join in all leases of community real property or separate real property the spouses own in joint tenancy or TIC if

- the initial lease term and any options or extensions exceeds five years; or

- the lease is for an indefinite term.

Any transaction in violation of these requirements is void, except that either spouse may transfer, convey, mortgage or lease directly to the other without the other spouse joining therein. Either spouse may transfer, convey, mortgage or lease the following without the other spouse joining:

- separate real property; and
- community real property or separate real property owned by the spouses as cotenants, pursuant to a valid power of attorney.

OTHER RELEVANT PROVISIONS

Uniform Real Property Transfer on Death Act

In the context of New Mexico's Uniform Real Property Transfer on Death Act, the term "joint owner" includes a joint tenant, but it does not include a tenant in common.

Statutory section 40-3-13 amended 1993; § 45-6-402 amended 2013.

N.M. Stat. §§ 40-3-13; 45-6-402 (2017)

New York

New York, Nonsecuritized TICs

CREATING A TIC

Generally, a property disposition to multiple persons creates a TIC, unless expressly stated to be a joint tenancy. However, a real property disposition to a husband and wife creates a tenancy by the entirety, unless expressly stated to be a joint tenancy or a TIC. Also, a property disposition to two or more persons as executors, trustees or guardians creates a joint tenancy, and property passing in intestacy to multiple persons creates a TIC.

OTHER RELEVANT PROVISIONS

Partnership formation

A TIC, by itself, does not create a partnership, even if the co-owners share profits made by using the property.

Section 6-2.2 amended 1995; § 11 amended 1976.

[N.Y. Est. Powers & Trusts Law § 6-2.2; P'ship Law § 11 \(2018\)](#)

New York, State TIC Securities

RELEVANT STATE SECURITIES LAWS

No provisions applicable to all tenancies in common were located.

Occupied cooperatives no-action letters

Upon application, the Department of Law may issue a "no-action letter," stating that it will not take any enforcement action because certain transactions occur without the filing of an offering plan in compliance with N.Y. Gen. Bus. Law § 352-e. In its examples of transactions that may qualify for a no-action letter, state regulations include, among other things, the offering and sale of shares allocated to units in property that is already "owned and occupied solely by the offerors" as tenants in common, among other forms of ownership, provided

- the offerors acquired title to the property in one of those forms at least two years before submitting the no-action letter application; and
- there are 10 or fewer dwelling units in the building.

Occupied condominium no-action letters

Upon application, the Department of Law may issue a "no-action letter," stating that it will not take any enforcement action because certain transactions occurs without the filing of an offering plan in compliance with N.Y. Gen. Bus. Law § 352-e. In its examples of transactions that may qualify for a no-action letter, state regulations include, among other things, the offering and sale of units in residential or commercial property that is "owned and occupied solely by the offerors" as tenants in common, among other forms of ownership, provided

- the offerors acquired title to the property in one of those forms at least two years before submitting the no-action letter application;
- there are no vacant or sublet units in the building; and
- the "proposed offerees must be identical to the offerors."

NO REGISTRATION IN BENEFICIARY FORM

Individuals whose security registration shows multiple ownership as tenants in common may not obtain registration in beneficiary form.

Multiple owners of a security registered in beneficiary form hold as joint tenants, tenants by the entirety or owners of community property held in survivorship form, not as tenants in common.

Statutory section 13-4.2 amended 2006. Regulation 18.9 amended 1984; r. 23.9 amended 2012.

[N.Y. Est. Powers & Trusts Law § 13-4.2 \(2018\)](#); N.Y. Comp. Codes R. & Regs. tit. 13, §§ 18.9, 23.9 (West 2018)

[New York, TIC Ownership](#)

TIC OWNERSHIP LIMITATIONS

Action for waste

A tenant in common may maintain an action for waste against a co-tenant who commits waste on real property held in a TIC. If the plaintiff recovers, he or she is entitled to either

- a final judgment for compensatory damages; or
- a partition of the property.

If the plaintiff elects to have a partition, the court must determine the parties' rights, bringing in persons who are not parties to the action for waste, but who must be parties to a partition action. The plaintiff may elect to take

- final judgment for damages; or
- in making the partition or dividing sale proceeds, that part of the defendant's share in the real property or proceeds, as is sufficient to compensate the plaintiff for damages and costs, other than the partition or sale expenses.

TIC OWNERSHIP RIGHTS

Action by one tenant in common

If two or more persons are entitled to possess real property as tenants in common, one or more of them may maintain an action to recover his or their undivided shares in the property.

Action for partition or sale

A person possessing real property as a tenant in common, in which "he has an estate of inheritance, or for life, or for years," may maintain an action to partition the property, and for a sale if it a partition cannot be made "without great prejudice to the owners."

Also, a person holding a reversion as a tenant in common may bring an action to partition the real property to which the interest attaches, subject to the interest of the person holding the particular estate. However, in this case, the premises may not be sold in the action without the written consent of the person owning the estate. If partition or sale would cause great prejudice to the owners, the complaint must be dismissed.

A person who became a tenant in common because he or she is an heir of a person who died holding and possessing real property may bring a partition action, notwithstanding an apparent devise to another by the decedent and possession under that devise. However, the plaintiff must show that that apparent devise is void.

Action against a cotenant to recover share

A tenant in common of real property may maintain an action to recover his just share against his co-tenant who has received more than his or her share.

Action to recover rights

If an tenant in common brings an action against a cotenant, the plaintiff must prove

- "his right"; and
- that the defendant "ousted" him or did another act that amounted to a total denial of his right.

OTHER INCIDENTS OF OWNERSHIP

Adverse possession

As between tenants in common, the occupancy by one tenant (whether personally or by his servant or tenant) is deemed to have been possession by the other, even if the tenant occupying the premises has acquired another title or has claimed to hold adversely. However, this presumption ceases at

- the end of 10 years of continuous exclusive occupancy by the tenant; or
- immediately upon an ouster of one tenant by the other.

At that time, the occupying tenant may begin to hold adversely to the cotenant.

Incorporation petitions

In determining whether a sufficient number of owners have signed a petition for incorporation as a village, each tenant in common is considered to be the owner of an that interest in the real property equal to the assessed valuation divided by the number of owners.

Missing co-tenants

If multiple persons hold real property as tenants in common and one tenant is missing under circumstances that "afford reasonable ground to believe" he is dead, the other tenants may bring an action to determine the value of the missing co-tenant's estate. The plaintiffs may receive a judgment extinguishing the missing co-tenant's estate upon payment into court of an amount equal to the value of his estate. The proportionate shares of tenants in common are determined as in a partition action. The costs of the action, including the fees of a guardian ad litem appointed to represent the missing co-tenant's interests, are assessed against the parties, and the part assessed against the missing person is charged against the value of the missing person's estate.

Real property tax circuit-breaker credit (N.Y. Tax Law § 606(e))

When determining a real property tax circuit-breaker credit, if multiple individuals own a residence as joint tenants or tenants in common, and one or more individuals are not a member of the household, "qualifying real property taxes" equals that part of the taxes that reflects the ownership percentage of the qualified taxpayer and the members of his household.

Enhanced real property tax circuit-breaker credit (N.Y. Tax Law § 606(e-1))

When determining an enhanced real property tax circuit-breaker credit, if multiple individuals own a residence as joint tenants or tenants in common, and one or more individuals are not a member of the household, "qualifying real property taxes" equals that part of the taxes that reflects the ownership percentage of the qualified taxpayer and the members of his household.

STAR credit (N.Y. Tax Law § 606(eee))

Effective in 2016, in the context of the state's school tax relief (STAR) credit, an "owner" includes a person who owns a parcel as a tenant in common.

Adirondack Park Agency Act

In the Adirondack Park Agency act, the "mere division of land by bona fide gift, devise or inheritance," is generally not subject to review by the agency. However, subdividing land owned by a TIC (or other joint ownership) between or among the owners is not deemed to be a "bona fide gift," even if no consideration passes between or among the parties, and the subdivision requires an agency permit, if one is otherwise required under the act.

Statutory sections 621, 633, 817, and 1211 enacted 1962; § 1201 amended 1963; § 901 amended 1975; § 2-202 enacted 2004; § 541 amended 2008; § 606 amended 2018. Regulation amended 2013.

[N.Y. Real Prop. Acts. Law §§ 541, 621, 633, 817, 901, 1201, 1211; Tax Law § 606\(e\), \(e-1\), \(eee\); Village Law § 2-202 \(2018\)](#); N.Y. Comp. Codes R. & Regs. tit. 9, § 573.4 (West 2018)

New York, TIC Sale or Transfer

GENERAL SALE AND TRANSFER PROVISIONS

No specifically relevant provisions were located.

OTHER RELEVANT PROVISIONS

Transfers to grantor as grantee

A person or persons owning real property may effectively convey the property by naming himself or themselves and another person or persons as grantees. The conveyance has the same effect regarding whether it creates a TIC or other joint ownership as if it were a conveyance from a stranger to the grantees.

Real estate transfer tax

The real estate transfer tax does not apply to a conveyance that merely changes the owner's identity or form of ownership or organization with no change in beneficial ownership. If tenants in common transfer their real property interests to a partnership or a corporation and the partnership or corporation interests are in the same pro rata shares as the tenants held before the conveyance, the conveyance is not taxable because there is no change in beneficial ownership.

Statutory section 240-b enacted 1943. Regulation amended 1995.

[N.Y. Real Prop. Law § 240-b \(2018\)](#); N.Y. Comp. Codes R. & Regs. tit. 20, § 575.10 (West 2018)

North Carolina

North Carolina, Nonsecuritized TICs

CREATING A TIC

No specifically relevant provisions were located.

OTHER RELEVANT PROVISIONS

Partnership formation

A TIC, by itself, does not establish a partnership, even if the co-owners share profits made by using the property.

Nonprofit association formation

A TIC, by itself, does not establish a nonprofit association, even if the co-owners share the property's use for a nonprofit purpose.

Statutory section 59-37 enacted 1941; § 59B-2 enacted 2006.

[N.C. Gen. Stat. §§ 59-37; 59B-2 \(2017\)](#)

North Carolina, State TIC Securities

RELEVANT STATE SECURITIES LAWS

No specifically relevant provisions were located.

NO REGISTRATION IN BENEFICIARY FORM

Individuals whose security registration shows multiple ownership as tenants in common may not obtain registration in beneficiary form. Multiple owners of a security registered in beneficiary form hold as joint tenants, tenants by the entireties, or owners of community property held in survivorship form, not as tenants in common.

Statutory section enacted 2005.

[N.C. Gen. Stat. § 41-41 \(2017\)](#)

North Carolina, TIC Ownership

TIC OWNERSHIP LIMITATIONS

Action for waste

A tenant in common may bring suit against a cotenant who commits waste.

TIC OWNERSHIP RIGHTS

Action for partition

One or more persons claiming real estate as tenants in common may petition for a partition.

If title to mineral interests has become separated from surface ownership, the tenants in common of the mineral interests may petition to partition the mineral interests, without joining the surface owners as parties. Similarly, the tenants in common of the surface may partition the surface, without joining the mineral-interest owners as parties. Thus, when the mineral and surface interests are separated in ownership,

- the mineral-interest owners need not be compelled to join in a partition of the surface interests;

- the surface-interest owners are not compelled to join in a partition of the mineral interests; and
- neither owners' rights are prejudiced by a partition of the other interests.

The commissioners must partition the property among the tenants in common according to their respective rights and interests, by "dividing the land into equal shares in point of value as nearly as possible." Therefore, they may subdivide the more valuable tracts as they deem best, and charge the "more valuable dividends" with the amount they believe necessary in order to make an equitable partition.

If any of the tenants in common are not known or have a title in dispute, that person's share must be set off as one parcel. However, if multiple parties appear as defendants claiming the same share of the premises or if the defendant disputes any part of the share the petitioner claims, it is not necessary to determine the claims before the court orders the partition or sale. The court may determine the controversy between the contesting parties later, in either the same or in an independent proceeding.

If multiple owners so request, the commissioners may allot their shares to them in common as one parcel, provided the division does not injure any cotenant.

The commission may partition only part of the land with either a sale of the remainder or the remainder held in cotenancy.

Each tenant in common must receive his or her share of the sale proceeds.

Sale of standing timber on partition

If multiple persons own as tenants in common a tract of land with standing timber, a sale of the timber, separate from the land, may be made upon a petition for partition by one or more of the owners.

Sale of mineral interests on partition

In partitioning mineral interests, if the court finds that it would be in the tenants' best interests to have the mineral interests sold, or if partitioning the mineral interests would injure some or all of the tenants in common, then the court must order a sale of the mineral interests and a division of the proceeds according to the parties' interests.

Sale of land required for public use

If land held by tenants in common is required for public purposes, one or more of the tenants may file a petition setting forth that the lands are required for public purposes and that their interests would be "promoted" by a sale of the property. If all proper parties are before the court and it finds the facts alleged in the petition to be true, the court must order a sale of the land.

Partial property tax payments and remedies

Any one of several tenants in common may pay the portion of property taxes, interest or costs that are a lien on his share of the property, releasing the tax lien from his share. In that case, upon a partition sale of the property,

- the share of the owner who paid his portion of the taxes is set apart free from the tax lien; and
- that owner's share of the sale proceeds is not reduced by disbursements to pay the taxes, interest, or costs.

If the tax lien is foreclosed and the property is sold for failure to pay taxes, the paying owner's share must be excepted from the advertisement and sale.

Payment of entire tax amount

Any tenant in common may pay the entire amount of the property taxes, interests and costs that are a lien on the property. Any amount so paid that exceeds that tenant's share of the taxes, interest, and costs, and that was not paid by agreement, is a lien in his favor on the shares of the other joint owners. That lien may be enforced in

- an actual partition proceeding;
- a proceeding for partition and sale; or
- any other appropriate judicial proceeding.

Liens in favor of a cotenant paying special assessments

Any one of several tenants in common may pay all or part of a special assessment made against property held in common. Any amount paid that exceeds that tenant's share of the assessment, and that was not paid by agreement with the other owners, is a lien in that tenant's favor upon the other owners' shares. The paying tenant may enforce the lien in

- an actual partition proceeding;
- a proceeding for partition and sale; or
- by any other appropriate judicial proceeding.

OTHER INCIDENTS OF OWNERSHIP

Petition by cotenant's judgment creditor

If a person owns a judgment docketed in a county in which the judgment debtor owns an undivided interest in land as a tenant in common, and the judgment creditor "desires to lay off the homestead of the judgment debtor in the land" and sell any excess to satisfy the judgment, the judgment creditor may bring a special proceeding to partition the land between the tenants in common. Upon the partition of the land, the judgment creditor may

- execute his judgment;
- have the judgment debtor's homestead allotted to him; and
- sell any excess, as in other cases where a homestead is allotted under execution.

Agricultural, horticultural, and forestland classes

When determining whether property is individually owned for purposes of finding whether property qualifies for agricultural, horticultural or forestland special tax classes, "individually owned" includes, among other things, property owned by tenants in common, if each tenant would qualify as an owner if the tenant were the only owner.

Property tax homestead exclusion

A permanent residence owned and occupied by a qualifying owner receives a homestead exclusion. "Owner" in this context is a person who holds legal or equitable title, including a tenant in common.

Effective for taxable years beginning on or after July 1, 2009, an owner who qualifies for both a property tax homestead circuit breaker and a property tax homestead exclusion may elect the circuit breaker instead of the homestead exclusion. If property is owned by two or more persons, each person must qualify for both kinds of property tax relief and must elect the circuit breaker in order for the circuit breaker to be allowed.

In the case of co-owners who are *not* husband and wife, each co-owner must apply separately for the exclusion. If one or more co-owners qualify for the homestead exclusion, and none of the co-owners qualifies for the disabled veteran property tax homestead exclusion, each co-owner is entitled to the full amount of the homestead exclusion, but

- the exclusion allowed to one co-owner may not exceed that co-owner's proportionate share of the property's value; and
- the exclusion amount for all co-owners may not exceed the exclusion allowed by statute.

If one or more co-owners qualifies for the homestead exclusion and one or more of the co-owners qualifies for the disabled veteran property tax homestead exclusion, each co-owner who qualifies for the homestead exclusion is entitled to the full amount of that exclusion. In that case,

- the exclusion allowed to one co-owner may not exceed that co-owner's proportionate share of the property's value; and
- the exclusion amount allowed to all co-owners may not exceed the greater of the homestead exclusion and the disabled veteran property tax homestead exclusion.

Disabled veteran property tax homestead exclusion

Effective for taxes imposed for taxable years beginning on or after July 1, 2009, a permanent residence owned and occupied by an owner who is a North Carolina resident and who is an honorably discharged disabled veteran or the unmarried surviving spouse of an honorably discharged disabled veteran may have the first \$45,000 of his or her residence's appraised value excluded from taxation. An owner who receives this exclusion may not receive other property tax relief. In this context, an "owner" is a person who holds legal or equitable title, including a tenant in common.

Street declaration withdrawals

In the context of street declaration withdrawals, if title of an abandoned road, highway, street or avenue is vested in tenants in common, any one or more of the tenants may execute and register the required withdrawal declaration. Upon the petition of any one or more of the tenants, the land may be partitioned by sale only as between or among the tenants, provided that in the partition proceedings, the tenants in common may object to the withdrawal certificate, in which case the court must order the certificate "cancelled of record."

Criminal indictments

In any indictment in which property ownership must be stated and it belongs to multiple persons, such as in a TIC, it is sufficient to name one person and to state that the property belongs to the named person and others.

Taxable real property interests

Taxable real property must be listed in the owner's name. Upon request and with the assessor's approval, "undivided interests in real property owned by tenants in common who are not copartners may be listed by the respective owners in accordance with their respective undivided interests." Otherwise, real property held by tenants in common must be listed in all of the owners' names.

Approved forest management plans

In the context of approved forest management plans, if forest land is owned jointly by multiple parties, such as in a TIC, the owners are considered to be one eligible landowner, entitled to receive cost-sharing payments only once during each fiscal year.

Listing real property for taxes

Each person who lists property for taxation must file with the assessor a tax list or abstract. Tenants in common must file a single abstract listing the real property, and all personal property that they

own jointly, unless the assessor allows them to list their real property interests on separate abstracts.

Statutory sections 1-536 and 15-148 history unknown; § 46-16 enacted 1887; § 46-13 amended 1937; §§ 46-4, 46-5, and 46-26 enacted 1905; §§ 105-363 and 160A-235 amended 1971; § 153A-203 amended 1973; § 46-33 amended 1977; § 46-3 amended 1985; §§ 136-96 and 105-302 amended 1987; § 46-10 amended 1995; § 46-25 amended 1997; § 46-27 amended 2005; §§ 105-277.1 and 105-277.1B amended 2009; § 105-277.1C amended 2010; § 106-1012 amended 2018; § 105-309 amended 2014; § 105-277.2 amended 2015.

[N.C. Gen. Stat. §§ 1-536; 15-148; 46-3, -4, -5, -10, -13, -16, -25, -26, -27, -33; 105-277.1\(b\)\(1b\), \(e\), -277.1B, -277.1C, -277.2\(4\)\(e\), -302, -309, -363; 106-1012](#) (as amended by [2018 N.C. Sess. L. 2018-113, § 5\(e\)](#)); [136-96; 153A-203; 160A-235 \(2017\)](#)

North Carolina, TIC Sale or Transfer

No specifically applicable provisions were located.

North Dakota

North Dakota, Nonsecuritized TICs

CREATING A TIC

No specifically relevant provisions were located.

OTHER RELEVANT PROVISIONS

Partnership formation

A TIC does not by itself establish a partnership, even if the co-owners share profits made by using the property.

Section amended 1999.

[N.D. Cent. Code § 45-14-02 \(2017\)](#)

North Dakota, State TIC Securities

RELEVANT STATE SECURITIES LAWS

No specifically relevant provisions were located.

NO REGISTRATION IN BENEFICIARY FORM

Individuals whose security registration shows multiple ownership as tenants in common may not obtain registration in beneficiary form. Multiple owners of a security registered in beneficiary form hold as joint tenants, tenants by the entireties or owners of community property held in survivorship form, not as tenants in common.

Section enacted 1991.

[N.D. Cent. Code § 30.1-31-22 \(2017\)](#)

North Dakota, TIC Ownership

TIC OWNERSHIP LIMITATIONS

Action for waste

If a tenant in common of real property commits waste, any aggrieved person may bring an action against the one committing the waste and may receive

- judgment for treble damages;
- forfeiture of the offending party's estate;

- eviction of the offending party from the premises.

Mineral interest statement of claim

A mineral interest that is unused for 20 years immediately before the first publication of the notice required by § 38–18.1–06 is deemed to be abandoned, unless the owner records a statement of claim. A joint tenant, but not a tenant in common, may record a claim on behalf of oneself and other joint tenants.

TIC OWNERSHIP RIGHTS

Action for partition or sale

If several cotenants hold and possess property as tenants in common or otherwise, and one or more of them have an estate of inheritance, for life, or for years, one or more such persons may bring an action for partition and for a sale of all or part of the property if it appears that the property cannot be partitioned without "great prejudice to the owners." The summons must be directed to all tenants in common, among other specified interested persons. If the court determines that it is "impracticable or highly inconvenient" to make a complete partition in the first instance among all interested parties, the court may adjudge a partial partition as if the original cotenants were the sole parties in interest and the only parties to the action.

Action to quiet title and determine claims

Any two or more persons with an estate or interest in, or a lien or encumbrance upon, real property under a common source of title, including tenants in common, may unite in an action against any person claiming an adverse estate, interest, lien or encumbrance on the property, for the purpose of

- determining the adverse claim;
- establishing the common title source;

- declaring the title to be held in trust; or
- removing a cloud upon the title.

OTHER INCIDENTS OF OWNERSHIP

Property forfeiture

In the context of property a law enforcement agency may take or hold in the course of that agency's official duties, the term "forfeitable property" includes, among other things, property that "has been used or is intended to be used to facilitate the commission of a criminal offense or to avoid detection or apprehension of a person committing a criminal offense." However, for those purposes, "property" does not include a residence or other real estate if a coowner, including a tenant in common, has not been convicted of the criminal offense.

Transfer-on-death deeds

A tenant in common is not deemed to be a "joint owner" in the context of transfer-on-death deeds.

Statutory section 29-31.1-01 enacted 1991; § 32-16-01 amended 1963; §§ 32-16-05, 32-16-09, 32-17-03 and 32-17-22 amended 1943; § 38-18.1-02 amended 2007; § 38-18.1-04 amended 2009; § 30.1-32.1-01 enacted 2011.

[N.D. Cent. Code §§ 29-31.1-01; 30.1-32.1-01; 32-16-01, -05, -09; 32-17-03, -22; 38-18.1-02, -04 \(2017\)](#)

North Dakota, TIC Sale or Transfer

No specifically relevant provisions were located.

Ohio

Ohio, Nonsecuritized TICs

CREATING A TIC

Except as provided otherwise provided by statute, a real property interest conveyed or devised to multiple persons is held as tenants in common and the joint interest created is a TIC.

OTHER RELEVANT PROVISIONS

Title certificates

If multiple persons are registered owners as tenants in common of undivided land interests,

- one owner's duplicate title certificate may be issued; or
- the owner of a separate or undivided interest may have a separate registration and receive a duplicate title certificate.

Partnership formation

A TIC does not by itself establish a partnership, even if the co-owners share any profits made by using the property.

Statutory section 5302.19 enacted 1985; § 5309.27 effective 1953; § 1776.22 enacted as renumbered 2008.

[Ohio Rev. Code §§ 1776.22; 5302.19; 5309.27 \(2018\)](#)

Ohio, State TIC Securities

RELEVANT STATE SECURITIES LAWS

No specifically relevant provisions were located.

NO REGISTRATION IN BENEFICIARY FORM

An individual whose security registration shows multiple owners as tenants in common may not obtain registration in beneficiary form. Multiple owners of a security registered in beneficiary form hold as joint tenants, not as tenants in common.

Statutory section enacted 1993.

[Ohio Rev. Code § 1709.02 \(2018\)](#)

Ohio, TIC Ownership

TIC OWNERSHIP LIMITATIONS

Action for waste (§ 5307.21)

Although one "coparcener" may maintain an action of waste against another, the relevant statute does not specifically mention tenants in common in that context.

TIC OWNERSHIP RIGHTS

Action for partition or sale (§§ 5307.01, .03)

Tenants in common may be compelled to partition, as provided by statute. The partition petition must list as defendants each "tenant in common, coparcener, or other person interested therein."

Action for partition of forfeited lands (§ 5723.15)

Any person claiming property by virtue of a sale of forfeited lands as a tenant in common with any other person, may apply for a partition.

Action against a covenant (§§ 5303.05; 5307.21)

In an action by a tenant in common of real property against a cotenant, the plaintiff must state

- the elements required by § 5303.03; and
- that the defendant either denied the plaintiff's right or did an act that amounted to such denial.

Also, one tenant in common may recover from another tenant in common his share of rents and profits received by that tenant from the estate, as required by "justice and equity."

Redemption rights (§ 5721.26)

If a tenant in common with property rights in land or lots described in any delinquent tax certificate fails to join or cannot be joined in a redemption, the county auditor may

- entertain the application of those persons that joined in the application; and
- release that portion of the land or lot as the person making the application is entitled to upon partition, provided the person pays the amount due under the delinquent tax certificate, as is "covered" by the applicant's portion of the land.

Transfer on death (§ 5302.22)

If an individual who owns real property as a tenant in common executes a transfer on death designation affidavit, upon that individual's death, title vests in the beneficiary or beneficiaries designated in the affidavit.

OTHER INCIDENTS OF OWNERSHIP

Home property tax exemptions (§§ 323.151; 5705.61)

A real property interest whereby a person at least 64 years old retains the privilege to occupy the property as a homestead is exempt from the tax on interests involving right to use, lease or occupy real property. In this context, an "owner" includes one or more tenants with a right of survivorship and tenants in common.

In the context of determining a homestead for tax purposes, an "owner" includes a tenant in common, among others.

Property tax bills (§§ 323.46, .47)

If:

- land is owned by multiple persons as tenants in common;
- one tenant paid the tax, interest, and penalty charged on his portion of the land;
- one of the remaining tenants failed to pay his portion of the tax, interest, and penalty; and
- the land is partitioned,

then, the amounts paid will be deemed paid on the proportion of the tract "set off to the person who paid his proportion of the tax, interest, and penalty."

Effective as of September 28, 2016, the court must order taxes, penalties, assessments due and payable, and interest, that are or will be a lien on the property as of the date of the sale or election to be discharged out of the sale or election proceeds, but only to the extent of those proceeds, if the land held by tenants in common is:

- sold upon partition proceedings;
- taken by any party's election; or
- sold by administrators, executors, guardians, or trustees.

The person paying the tax, interest, and penalty must "hold the proportion of such tract set off to him free from the residue" of the amount "charged on the tract before partition." The proportion of the tract set off to the person who has not paid his proportion must be charged with the portion remaining unpaid, as if

- partition had been made before the amounts had been assessed; and
- that proportion of the tract had been originally listed for taxation in the delinquent person's name.

Annexation petitions (§ 709.02)

Owners of real estate contiguous to a municipal corporation may petition for annexation in the manner provided by statute. In the context of an annexation petition, a person who owns more than one parcel, either individually, as a tenant in common or by survivorship tenancy, counts as one owner.

Road improvement petitions (§§ 5555.05; 5559.04; 5571.06)

In determining whether the necessary number of persons have signed a petition asking for platted-territory, county or township road improvements, tenants in common of an undivided estate

are counted as a unit. If all do not agree, whether for or against the improvement, none of the tenants in common are counted.

Unincorporated nonprofit associations (§ 1745.05)

An unincorporated nonprofit association does not include a joint tenancy, a tenancy in common, or a tenancy by the entireties, even if the co-owners use the property for a nonprofit purpose.

Statutory sections 5303.05, 5307.03, 5307.21, 5555.05, 5559.04, and 5571.06 effective 1953; §§ 323.46, 5705.61, 5723.15, and 5307.01 amended 1985; § 5721.26 amended 1988; § 709.02 amended 2001; § 5302.22 amended 2009; § 1745.05 enacted 2011; § 323.151 amended 2016; § 323.47 amended 2017.

[Ohio Rev. Code §§ 323.46, .47, .151; 709.02; 1745.05; 5302.22; 5303.05; 5307.01, .03, .21; 5555.05; 5559.04; 5571.06; 5705.61; 5721.26; 5723.15 \(2018\)](#)

Ohio, TIC Sale or Transfer

GENERAL SALE AND TRANSFER PROVISIONS

No relevant provisions were located.

OTHER RELEVANT PROVISIONS

Transfer-upon-death deeds

An individual who owns real property as a tenant in common (or otherwise) may designate that all or part of the real property interest is transferable on death to a designated beneficiary or beneficiaries by executing, together with his or her spouse, a transfer on death designation affidavit.

Statutory section amended 2009.

[Ohio Rev. Code § 5302.22 \(2018\)](#)

Oklahoma

Oklahoma, Nonsecuritized TICs

CREATING A TIC

Oklahoma law appears to presume the creation of a TIC; a joint interest is created "when expressly declared in the instrument, will or transfer to be a joint tenancy."

OTHER RELEVANT PROVISIONS

Partnership formation

A TIC, by itself, does not establish a partnership, even if the co-owners share profits made by using the property.

Statutory section 60-74 enacted 1945; § 54-1-202 enacted 1997.

[Okla. Stat. tit. 54, § 1-202; tit. 60, § 74 \(2017\)](#)

Oklahoma, State TIC Securities

RELEVANT STATE SECURITIES LAWS

No specifically relevant provisions were located.

However, for purposes of determining the number of persons to whom an issuer's securities are being sold (as used in sections 1-202.14 and 1-202.16 of the Securities Act), a sale to persons who acquire the securities as joint tenants or as tenants in common are counted as sales to each tenant, unless otherwise "covered by the rules of attribution."

Also, the Oklahoma Uniform Securities Act of 2004 defines "security" to include a "fractional undivided interest in oil, gas, or other mineral rights." An issuer of fractional undivided interests in an oil, gas, or other mineral lease, or in production payments, is the "owner of an interest in the lease or in payments out of production . . . that creates fractional interests" for sale purposes.

NO REGISTRATION IN BENEFICIARY FORM

Individuals whose security registration shows multiple ownership as tenants in common may not obtain registration in beneficiary form. Multiple owners of a security registered in beneficiary form hold as joint tenants, tenants by the entireties, or owners of community property held in survivorship form, not as tenants in common.

Statutory section 71-903 enacted 1994; § 1-102 enacted 2003. Regulation effective 2004.

[Okla. Stat. tit. 71, §§ 903, 1-102 \(2017\); Okla. Admin. Code § 660:11-11-3 \(2018\)](#)

Oklahoma, TIC Ownership

TIC OWNERSHIP LIMITATIONS

Contributions for repairs

If a tenant in common or other co-owner, has, by consent, made repairs and improvements with the knowledge, and without the objection, of his or her cotenant, that cotenant must contribute his or her share.

TIC OWNERSHIP RIGHTS

Action against a cotenant

If a tenant in common of real property brings an action against a cotenant, the plaintiff must, in addition to other requirements, state in his or her petition that the defendant either

- denied the plaintiff's right; or
- did an act that amounted to a denial.

Rent recovery

A tenant in common or other co-owner may bring an action against his or her cotenant for receiving more than his or her just share of rents and profits.

OTHER INCIDENTS OF OWNERSHIP

Property tax listings

If real estate is owned by tenants in common, and the interest of one or more of the tenants is subject to taxation, and that of others is not, then the tenants whose interests are subject to taxation must "list such undivided interests for taxation at the time and in the same manner as other taxable property is listed."

Parking station improvement petitions

For parking-station improvement petition purposes, if any landowners within the improvement district are tenants in common, each cotenant is considered a landowner to the extent of his or her undivided interest in the property.

Statutory sections 1144, 20, and 21 enacted 1910; § 32-111 enacted 1978; § 2833 enacted 1988.

[Okla. Stat. tit. 41, §§ 20, 21; tit. 11, § 32-111; tit. 12, § 1144; tit. 68, § 2833 \(2017\)](#)

Oklahoma, TIC Sale or Transfer

No specifically relevant provisions were located.

Oregon

Oregon, Nonsecuritized TICs

CREATING A TIC

A conveyance or devise of real property (or a real property interest) made to two or more persons:

- creates a TIC unless the conveyance or devise "clearly and expressly declares that the grantees or devisees take the real property with right of survivorship";
- creates a tenancy by the entirety if the conveyance or devise is to spouses married to each other, unless the document clearly declares otherwise; and
- creates a joint tenancy if the conveyance or devise is to a trustee or personal representative. (Except in this context, joint tenancy in real property is abolished and using the words "joint tenants" without any other indication of an intent to create a right of survivorship creates a TIC.)

OTHER RELEVANT PROVISIONS

Partnership formation

A TIC, by itself, does not establish a partnership, even if the co-owners share profits made by using the property.

Statutory section 67.055 amended 2007; § 93.180 amended 2015.

[Or. Rev. Stat. §§ 67.055\(4\)\(b\), 93.180 \(2017\)](#)

Oregon, State TIC Securities

RELEVANT STATE SECURITIES LAWS

No specifically relevant state securities laws were located. (S.B. 449, which was introduced in 2007 and would have provided that a TIC or other undivided estate would not be included in the definition of "security" under certain circumstances, did not pass into law.)

Note that the Oregon Division of Finance and Corporate Securities (DFCS) "reminds those offering or selling tenancy in common interests that they may be securities under state and federal law." Thus, a person offering or selling "a security, which may include TICs in many forms, have obligations under the securities laws." The division also asserts that "[t]o determine whether a contemplated tenancy in common arrangement is a security, whether it may be exempt or to find out more about securities licensing, you should contact DFCS at (503) 378-4140 or consult with an attorney for individualized legal advice."

NO REGISTRATION IN BENEFICIARY FORM

Individuals whose security registration shows multiple ownership as tenants in common may not obtain registration in beneficiary form. Multiple owners of a security registered in beneficiary form hold as joint tenants, tenants by the entireties, or owners of community property held in survivorship form, not as tenants in common.

Statutory section enacted 1991. DFCS history unknown.

[Or. Rev. Stat. § 59.540 \(2017\)](#); see [S.B. 449, 74th Leg. Assem., Reg. Sess. \(Or. 2007\)](#); see also Ore. Div. of Fin. & Corp. Securities (DFCS), *Offering or selling tenancies-in-common (TICSS); Securities implications in the promotion/offer and sale* (last visited Mar. 7, 2011)

Oregon, TIC Ownership

TIC OWNERSHIP LIMITATIONS

Action for waste

If a tenant in common commits waste on the property, any injured person may maintain an action for damages against the tenant, and the court may award

- a judgment for treble damages;
- a forfeiture of the estate of the party that committed or permitted the waste; and
- eviction from the property.

Forfeiture and eviction may be given only in favor of the person entitled to a reversion against the party in possession, if

- the injury to the estate is equal to the value of the tenant's estate or unexpired term; or
- the waste was committed with malice.

TIC OWNERSHIP RIGHTS

Action by one tenant in common for profits

A tenant in common may bring an action against a cotenant for receiving more than his or her just share of the rents or profits of the estate owned in common.

Action for partition or sale

If several persons hold real property as tenants in common, and one or more has "an estate of inheritance, or for life or years," any one or more of the cotenants may bring a suit

- to partition the real property according to the interested parties' respective rights; and

- for a sale of all or part of the property if a partition would cause "great prejudice" to the owner.

If the court finds that partitioning or selling the property would cause great prejudice to the owners, the court may

- receive evidence regarding the value of the parties' interests;
- fix the interests' values; and
- permit an owner to borrow money on the property to pay off another owner's interest.

The partition complaint must state the property interests of all known and unknown persons, with any unknown, uncertain or contingent information so indicated. The summons must name all known tenants in common, all lien creditors who are made parties to the suit and all unknown persons that have or claim an interest or estate in the property. The plaintiff must make all tenants and creditors with liens on the property defendants in the suit. If the lien is on any party's undivided interest and a partition is made, the lien becomes a lien only on the share assigned to that party. That share is also charged with its portion of the partition costs ahead of the lien.

If the court finds that all or part of the property is situated so that partition would greatly prejudice the owners, the court may order a sale of the property.

If an equal partition cannot be made, the court may award compensation by one party to another because of the unequal partition.

Adverse possession

Unless otherwise agreed or provided in the deed, a tenant in common may acquire fee simple title to the real property by adverse possession against all other cotenants, if the tenant in common or his or her predecessor in interest

- has been in possession of the property, exclusive of all other cotenants, for 20 years or more; and
- has paid all assessed taxes on the property while in possession.

The possessing cotenant need not give an exclusive-possession notice to the other cotenants.

Action against a cotenant

In an action by a tenant in common against a cotenant, the plaintiff must show

- evidence of possession rights; and
- that the defendant either denied the plaintiff's right or did some act amounting to a denial.

Reimbursement of tenants in common obtaining possession

If property is claimed or owned by Oregon residents in common with others, and the residents have obtained possession of the property at "their own cost, expense or labor," they are entitled to reimbursement from the other claimant in common, according to their proportionate interest.

Residents obtaining possession have a lien on the property until the remaining claimant has paid his or her proportionate share of the reasonable costs, expenses or labor.

OTHER INCIDENTS OF OWNERSHIP

Special districts

If a special district petition must be signed by landowners, and the person signing is a tenant in common, the signature of the person signing is counted as if all other owners had signed.

Irrigation districts

In any matter related to the state's irrigation-district laws that requires or allows a vote of an irrigation district's landowners, if ownership is by tenants in common or other multiple-ownership forms, only one vote is allowed on behalf of all the owners. Any one of the multiple owners may cast the vote.

"Nonexclusive farm use zone farmland"

As used Oregon's statutes regarding "nonexclusive farm use zone farmland," "owner" includes a person who is an owner as a tenant in common. An owner entitled to a special assessment pursuant to § 308A.068 must apply for the assessment. The application may be signed by any one of the tenants in common.

Farm and forest homesites

As used in the state's farm and forest homesite statutes, "owner" means, among others, any one of the tenants in common.

Street and road improvements in unincorporated areas

In signing petitions or objections related to street and road improvements in unincorporated areas, land parcels owned by tenants in common are considered to have one owner, which is deemed to have signed the petition or objection only if every cotenant has signed.

Water improvement and water control districts

In Oregon's water improvement and water control district laws, if multiple persons own a tract of land as tenants in common, each person is "regarded as a landowner."

Mortgage credit certificate program

In determining eligibility under the Oregon Mortgage Credit Certificate Program, an eligible borrower acquiring a single-family residence must have no present ownership interest in a principal residence at any time during the prior three-year period. An interest as a tenant in common is considered to be a present ownership interest.

Statutory section 105.050 amended 1969; §§ 105.080, 105.205 and 105.210 amended 2001; §§ 105.215, 105.220, 105.225, 105.245, 308A.071, 308A.077 and 308A.250 amended 2003; §§ 105.250 and 105.615 amended 1989; § 105.805 amended 1973; § 552.013 amended 1991; §§ 198.770 and 545.007 amended 1999; § 553.010 amended 2003; § 105.820 amended 2007; § 90.820 amended 2014; § 371.620 amended 1991. Regulation 813-080-0040 amended 1991.

[Or. Rev. Stat. §§ 90.820; 105.050, .080, .205, .210, .215, .220, .225, .245, .250, .615, .805, .820; 198.770; 308A.071, .077, .250; 371.620; 545.007\(1\)\(a\); 552.013\(7\); 553.010\(5\) \(2017\); Or. Admin. R. 813-080-0040 \(2018\)](#)

Oregon, TIC Sale or Transfer

Receivership

If at the time of appointment of a receiver an owner holds an undivided interest in property as a tenant in common, joint tenant or tenant by the entirety, the receiver may sell both the interest that is estate property and the interest of any co-owner upon court order if the court determines that:

- partition in kind of the property is impracticable;
- sale of the estate's undivided interest in the property would realize significantly less for the estate than sale of the property free and clear of the interests of the co-owner; and

- the benefit to the estate of the sale outweighs the detriment, if any, to the co-owner.

[2017 Or. Laws ch. 358, § 25 \(S.B. 899\)](#)

Pennsylvania

Pennsylvania, Nonsecuritized TICs

CREATING A TIC

No specifically relevant provisions were located.

OTHER RELEVANT PROVISIONS

Partnership formation

A TIC, by itself, does not establish a partnership, even if the co-owners share profits made by using the property.

Nonprofit associations

The term "nonprofit association" does not include a joint tenancy, tenancy in common, or tenancy by the entireties, even if the co-owners share the property's use for a nonprofit purpose.

Statutory section 8422 enacted 2016 (formerly § 8312); § 9112 amended 2014.

[15 Pa. Stat. and Cons. Stat. Ann. §§ 8422, 9112 \(2018\)](#)

Pennsylvania, State TIC Securities

RELEVANT STATE SECURITIES LAWS

No specifically relevant state securities laws were located.

Effective August 9, 2014, in the context of Pennsylvania's Securities Act of 1972, the term "security" includes a "fractional undivided interest in oil, gas or other mineral rights."

NO REGISTRATION IN BENEFICIARY FORM

Individuals whose security registration shows multiple ownership as tenants in common may not obtain registration in beneficiary form. Multiple owners of a security registered in beneficiary form hold as joint tenants, tenants by the entireties or owners of community property held in survivorship form, not as tenants in common.

Statutory section 6402 enacted 1996; § 1-102 amended 2014.

[20 Pa. Stat. and Cons. Stat. Ann. § 6402](#); [70 Pa. Stat. and Cons. Stat. Ann. § 1-102 \(2018\)](#)

Pennsylvania, TIC Ownership

TIC OWNERSHIP LIMITATIONS

Timber right restrictions

An owner or owners of an undivided interest in timber land in Pennsylvania may not cut or remove any timber trees without first obtaining all cotenants' written consent.

TIC OWNERSHIP RIGHTS

Action for rental share

If real estate is held by multiple persons as tenants in common, and one or more of the tenants possesses the real estate, any tenant not in possession may sue for and recover from the tenants in possession his or her proportionate share of the rental value. If the real estate is partitioned, parties in possession will have deducted from their share the rental value of the property to which their cotenants are entitled.

Action for partition

Generally, property that cannot be divided "without prejudice to or spoiling the whole" must be offered for private sale to the parties. Defendants owning a majority of the property (in value) may

- object in writing to any sale;
- request that the property be awarded to them at the value set by the court; and
- request that their property interests remain undivided.

Upon such request, the court must award the entire property to the objecting parties as tenants in common, subject to payment to the parties desiring partition and sale of the amounts equal to their respective interests, based on value. Amounts due are charged as liens on the property.

Disputes concerning title

In title disputes, if the defendant declares in writing that he or she holds real property as a tenant in common with the plaintiff and that he or she believes that the real property does not exceed the just proportion of his or her share as a tenant in common, the judge must stay the proceedings, provided the defendant files a bond conditioned on him prosecuting his claim in court.

Redemption rights

If any tenants in common of "unseated lands" sold for taxes, pay, within two years after the sale, a proportionate part of the taxes for which the property was sold, plus costs and 15 percent, those tenants may recover their share and interest in the land and hold and enjoy it, with the purchaser at the sale, as tenants in common.

OTHER INCIDENTS OF OWNERSHIP

Spousal rights

All property acquired by either party during a marriage is presumed to be marital property, whether held individually or in some form of co-ownership, such as a TIC.

Eminent domain claims

A court must hear or try together the eminent domain claims of all owners of a condemned property, including tenants in common and all others with an interest in the property.

Senior citizens' property tax and rent rebate assistance

When determining the senior citizens' property tax and rent rebate assistance, the owner of a homestead includes, among others, a person in possession under a TIC. If multiple persons own a homestead and one or more of the co-owners is not qualified to be a claimant under the Senior Citizens Property Tax or Rent Rebate Act, "real property taxes" includes only the part of the taxes that reflects the ownership of the claimant and the other household members who meet the qualifications. If title to the property is held by a claimant and another as tenants in common, each tenant's share is deemed to be equal, unless it is shown that the interests are not equal, in which case the claimant's share is as shown.

Tax claims

If real estate is owned by tenants in common and a tenant has paid his or her share of the taxes due on the property, a municipality may file a claim for the unpaid taxes against the estate, title and interest of the owner who has not paid his or her proportionate share of the tax. Whenever a claim for taxes is filed against real estate owned by tenants in common, the claimant must release from the tax claim the estate, title and interest of any tenant paying his or her share of the taxes, plus interest and costs.

Local tax payments

A tenant in common may pay his or her proportionate share of local taxes due on property. The paying tenant's interest is not affected by any proceeding or sale to enforce the payment of taxes on the other interests in the land.

If a tenant has paid his or her share of the taxes due on property owned by tenants in common, the taxing district may file a claim for the unpaid taxes against the interest of the owners who have not paid their proportionate share. The bureau must release from the claim the interest of any tenant in common who pays his or her share of the taxes with costs.

Oil and gas well liability for labor and materials

A person performing labor or furnishing materials for an oil or gas well may sue any tenant in common to recover the pro rata share owed by that owner for the labor done or materials furnished. Upon judgment, that tenant's interest is subject to levy and sale on execution to enforce collection of the claim.

Any tenant in common paying the pro rata share of the necessary expenses of any drilling, producing or pumping an oil or gas well for any other tenant in common has the same rights to bring an action as a person performing labor or providing materials, except that no tenant in common is required to pay any share of the expenses of operations that are carried on without his or her consent.

Adverse possession claims

A tenant in common may make a statement of claim for adverse possession for himself and his co-tenants, and it "operate[s] in favor" of each of the tenants. However, the statement does not preclude any other co-tenant from making and recording a statement on his own behalf.

Delinquent local tax notices

In the case of property owned by tenants in common, the tax bureau may give any required delinquent local tax notices by forwarding only one notice addressed to the tenants at the same post office address.

Tax sales

The undivided interest of a tenant in common of any "seated lands" may not be sold for the failure of a tenant to pay his or her proportionate share of the taxes assessed against the land, provided that tenant has paid his or her share of the taxes. The tax sale of land held in common passes title to the undivided interest of only the land held by persons who failed or neglected to pay their part of the taxes.

A tenant in common may pay his or her share of the taxes at any time before the sale of the land under the lien.

Net gains or income from property disposition

When determining whether an individual may exclude a gain from the sale of a principal residence, if the taxpayer holds title to the residence with others as tenants in common, each co-owner need not make an election or consent to the other co-owner's election. Generally, the applicable age, ownership and use conditions apply separately to each co-owner. Only the co-owner who meets those requirements may make an election.

Statutory section 115 enacted 1869; §§ 31 and 32 enacted 1891; § 101 enacted 1895; § 83 enacted 1901; §§ 5968 and 5969 enacted 1917; § 7109 amended 1929; § 6097 amended 1935; § 5511.12 enacted 1945; § 5860.305 enacted 1947; § 5860.308 amended 1993; § 3501 amended 2004; § 507 amended 2006; § 6926.1303 amended 2016. Regulation 401.54 amended 1976; r. 103.13 amended 1998; r. 513 amended 2005. Rule 1563 adopted 1955.

[23 Pa. Stat. and Cons. Stat. Ann. § 3501\(b\)](#); [26 Pa. Stat. and Cons. Stat. Ann. § 507\(a\),\(b\)](#); [53 Pa. Stat. and Cons. Stat. Ann. §§ 6926.1303, 7109](#); [58 Pa. Stat. and Cons. Stat. Ann. §§ 31, 32](#); [68 Pa. Stat. and Cons. Stat. Ann. §§ 83, 101, 115](#); [72 Pa. Stat. and Cons. Stat. Ann. §§ 5511.12, 5860.305, 5860.308\(a\), 5968, 5969, 6097 \(2018\)](#); [Pa. R.C.P. 1563](#); [61 Pa. Code §§ 103.13, 401.54](#); [246 Pa. Code § 513\(B\) \(2018\)](#)

Pennsylvania, TIC Sale or Transfer

No specifically relevant provisions were located.

Puerto Rico

Puerto Rico, Nonsecuritized TICs

No specifically relevant provisions were located.

Puerto Rico, State TIC Securities

RELEVANT STATE SECURITIES LAWS

No specifically relevant provisions were located.

However, the Puerto Rico Uniform Securities Act defines "security" to include an "undivided interest in oil, gas, or other mineral rights." However, although an "issuer" is any person who issues or proposes to issue a security, with reference to "certificates in evidence of an interest or shares in oil, gas, or mining titles, deeds or leases, or in payments derived from production by virtue of said titles, deeds or leases," the person is not deemed to be an issuer.

NO REGISTRATION IN BENEFICIARY FORM

No relevant provisions were located.

Statutory section amended 2004.

P.R. Laws Ann. tit. 10, § 881(l) (2018)

Puerto Rico, TIC Ownership

TIC OWNERSHIP LIMITATIONS

Property changes

None of several owners in common may, without the other owners' consent, change the common property, even if all may benefit.

Use limitations

Each owner may use things held in common, provided he or she

- uses them according to the purpose for which they are intended;
- uses them in such a way as not to injure the common ownership interests; and
- does not prevent the co-owners from using them according to their rights.

Decision of majority as to management

A resolution of the majority as to management of the thing held in common is binding on all.

TIC OWNERSHIP RIGHTS

Rights to profits

Each part-owner has "absolute ownership" of his part and of its "fruits and profits."

Action for partition or sale

A part-owner is not required to remain "a part to the common ownership." Each owner may, at any time, demand the division of the thing held in common. However, parties may stipulate that they will not divide the thing for a stated time period, which may not exceed ten years without a new agreement.

Part-owners may not compel a division if it may "render it unserviceable for the use for which it was intended."

The interested parties, arbitrators or "friendly compromisers" may divide the thing held in common. Arbitrators or compromisers must divide it into parts that are proportional to each part-owner's rights, avoiding cash payments, if possible.

Part-owners' creditors or assignees may concur in the division and object to any division made without their concurrence. However, they may not object to a division already made except in cases of fraud or when made notwithstanding a formal opposition.

If the thing held in common is "essentially indivisible," and the part-owners do not agree on its disposition (with indemnification of the other owners), then it must be sold, with the proceeds distributed to the owners.

Any division of a thing held in common must not cause injury to a third person, who retains his or her mortgage, servitude or other rights.

Preservation expenses

Each co-participant has the right to obligate the others to contribute to the expenses of preserving the thing or right held in common. Only a person who renounces his or her share is exempt.

OTHER INCIDENTS OF OWNERSHIP

Stories or parts of stories of buildings belonging to different owners

If different stories or parts of a building belong to different owners, each has

- an exclusive property right in the story or part; and
- a joint right of co-ownership in the other building elements necessary for "adequate use and enjoyment."

Parts in co-ownership may not be divided, and, in the absence of a covenant to the contrary, are presumed equal. Repair and maintenance expenses of the common elements are, in the absence of covenant, paid pro rata by all parties concerned.

If the owner of a story or part of the building wishes to sell, he or she must notify the other owners, who have preference over outsiders for acquiring the property.

No owner may "vary substantially the purpose or structure of his story" without the agreement of a majority of the other concerned parties.

Participants' shares

Participants' shares in benefits and charges are proportionate to their respective shares. The portions belonging to the participants in common ownership are presumed equal unless the contrary is proven.

Statutory sections 1272, 1273, 1274, 1276, 1277, 1278, 1279, 1280, 1281, 1282, 1283, and 1284 enacted 1930; § 1275 amended 1951.

P.R. Laws Ann., tit. 31, §§ 1272, 1273, 1274, 1275, 1276, 1277, 1278, 1279, 1280, 1281, 1282, 1283, 1284 (West 2018)

Puerto Rico, TIC Sale or Transfer

GENERAL SALE AND TRANSFER PROVISIONS

Pro indiviso land sales

In order for the sale of common "pro indiviso land" to be valid,

- the sale must be conducted through a public deed; and
- the deed must "indicate the common pro indiviso portion or share corresponding to the buyer, the corresponding legal admonishments and the acceptance of the buyer to acquire the land in such a capacity."

OTHER RELEVANT PROVISIONS

No other relevant provisions were located.

Statutory section amended 1998.

P.R. Laws Ann. tit. 31, § 1275a (LexisNexis 2018)

Rhode Island

Rhode Island, Nonsecuritized TICs

CREATING A TIC

All gifts, conveyances and devises of real estate to multiple persons are deemed to create a TIC, unless

- the conveyance or devise declares that the tenancy is to be joint or that the conveyance is to those persons and their survivors;

- the conveyance is to the parties as trustees or executors; or
- the "intention manifestly appears" that the persons take as joint tenants, not as tenants in common.

OTHER RELEVANT PROVISIONS

Partnership formation

A TIC, by itself, does not establish a partnership, even if the co-owners share profits made by using the property.

Statutory section 34-3-1 amended 1938; § 7-12-18 enacted 1957.

[R.I. Gen. Laws §§ 7-12-18; 34-3-1 \(2017\)](#)

Rhode Island, State TIC Securities

RELEVANT STATE SECURITIES LAWS

No specifically relevant provisions were located.

However, the Rhode Island Uniform Securities Act defines "security" to include a "fractional undivided interest in oil, gas, or other mineral rights" or production payments. An issuer of fractional undivided interests in an oil, gas, or other mineral lease, or in production payments, is the "owner of an interest in the lease or in payments out of production . . . who creates fractional interests" for sale purposes.

NO REGISTRATION IN BENEFICIARY FORM

Individuals whose security registration shows multiple ownership as tenants in common may not obtain registration in beneficiary form. Multiple owners of a security registered in beneficiary form hold as joint tenants, tenants by the entireties or owners of community property held in survivorship form, not as tenants in common.

Statutory section 7-11.1-3 enacted 1998; § 7-11-101 amended 2003.

[R.I. Gen. Laws §§ 7-11.1-3, -11-101 \(2017\)](#)

Rhode Island, TIC Ownership

TIC OWNERSHIP LIMITATIONS

Action for waste

Every tenant in common who commits waste on an estate he or she holds in common, without the consent of the other cotenants, forfeits double the amount of the waste, to be recovered by the other tenants in common. Any one or more of the tenants may bring an action for waste in the name of all tenants.

Liability in mechanics' lien context

If an owner that is less than sole owner of the title, including a tenant in common, constructs, alters or repairs a "building, canal, turnpike, railroad, or other improvement," the improvement and the owner's title and interest are subject to liens for work done and materials used in the project. However, the title and interest of any other owner is not subject to the liens, unless he or she consented in writing to the construction, alteration or repairs.

TIC OWNERSHIP RIGHTS

Actions for possession

In actions concerning the possession of an estate held in common, the action may be brought by

- all or any two or more of the tenants in common; or
- by each tenant for his or her share of the estate.

Action for partition or sale

All tenants in common, who now are or may be "seized or possessed" of any estate of inheritance or for life or years may be compelled to make partition by civil action.

Action for account

If multiple persons hold any estate, interest or property, as tenants in common or as other joint owners, and one or more of the owners takes, receives, uses or has benefit of the property or interest in greater proportion than his or her interest, that owner or owners are liable to "render his, her, or their account of the use and profit of such common property" to the co-owners.

Action by co-tenant for tax contribution

A tenant in common who pays the entire tax assessed for property may recover from his co-tenants, jointly or severally, the share payable by the co-tenants.

Appointing receivers

Upon the application of any interested party, the superior court may appoint receivers of the rents and profits of estates owned by tenants in common. The receiver must take possession of and manage the estates, lease the estates, collect rents, keep the premises in repair, and distribute the net income among the tenants in common.

OTHER INCIDENTS OF OWNERSHIP

Homestate property tax relief

In determining homestead tax relief, "owned" includes one or more tenants in common. If a homestead is owned by multiple persons or entities as tenants in common, and one or more of the owners are not a member of the claimant's household, "property taxes accrued" is that part of property taxes levied on the homestead that reflects the ownership interest of the claimant and his or her household.

Homestead estate exemption

For the purposes of determining the homestead estate exemption, "owner of a home" includes a tenant in common. However, only one individual may acquire a homestead estate in a home, and a homestead estate may be acquired on only one principal residence per family.

Westerly Downtown Center Special Services District

In a referendum on ordinances establishing downtown center special services districts, a tenant in common has a vote equal to the fraction of his or her ownership in the interest. No holder of record of a real property taxable interest, even if they hold in common, may be precluded from participating in a referendum because of the entity that holds the record interest.

Criminal complaints

In every criminal indictment, information or complaint, if the ownership of property belonging to more than one person, as tenants in common or otherwise, must be stated, it is sufficient to name one of the owners and state that the property belongs to the named person and others.

Damages from Milldams

If several tenants in common are plaintiffs in a suit regarding damages from milldams, and, while the suit is pending, one or more of them sells his or her interest in the premises alleged to be injured, to one or more of his or her cotenants, the cause proceeds to judgment as if the conveyance had not occurred.

Statutory sections 10-15-1, 10-15-2, 12-12-16, 34-14-2, 34-14-3, 34-15-2, 34-15-3, 34-20-3 and 46-18-14 amended 1938; § 44-7-19 enacted 1946; § 34-15-1 enacted 1956; § 34-28-3 amended 1991; § 10-2-1 amended 1997; § 45-56-4 enacted 1998; § 44-33-3 amended 2014; § 9-26-4.1 amended 2016.

[R.I. Gen. Laws §§ 9-26-4.1](#) (as amended by [2016 R.I. Pub. Laws ch. 515](#)); [10-2-1](#); [10-15-1, -2](#); [12-12-16](#); [34-14-2, -3](#); [34-15-1, -2, -3](#); [34-20-3](#); [34-28-3](#); [44-7-19](#); [44-33-3](#); [45-56-4](#); [46-18-14 \(2017\)](#)

Rhode Island, TIC Sale or Transfer

No specifically applicable provisions were located.

South Carolina

South Carolina, Nonsecuritized TICs

CREATING A TIC

South Carolina law appears to presume that a deed creates a TIC unless otherwise explicitly provided; a real estate deed that contains the grantees' names followed by the words "as joint tenants with rights of survivorship, and not as tenants in common" conclusively creates a joint tenancy with rights of survivorship.

OTHER RELEVANT PROVISIONS

Partnership formation

A TIC does not by itself establish a partnership, even if the co-owners share profits made by using the property.

Statutory section 27-7-40 amended 2002; § 33-41-220 amended 1962.

[S.C. Code §§ 27-7-40\(a\); 33-41-220\(2\) \(2018\)](#)

South Carolina, State TIC Securities

RELEVANT STATE SECURITIES LAWS

No specifically relevant provisions were located.

However, the South Carolina Uniform Securities Act of 2005 defines "security" to include a "fractional undivided interest in oil, gas, or other mineral rights." An issuer of fractional undivided interests in an oil, gas, or other mineral lease, or in production payments, is the "owner of an interest in the lease or in payments out of production . . . that creates fractional interests" for sale purposes.

NO REGISTRATION IN BENEFICIARY FORM

Individuals whose security registration shows multiple ownership as tenants in common may not obtain registration in beneficiary form. Multiple owners of a security registered in beneficiary form hold as joint tenants, not as tenants in common.

Statutory section 35-6-20 enacted 1997; § 35-1-102 enacted 2005.

[S.C. Code §§ 35-1-102, -6-20 \(2018\)](#)

South Carolina, TIC Ownership

TIC OWNERSHIP LIMITATIONS

No specifically relevant provisions were located.

TIC OWNERSHIP RIGHTS

Action for partition or sale

Tenants in common who hold, for a term of life or years or under certain other specified conditions, may be compelled to partition the property held in common. Effective January 1, 2017, upon a party's motion or from statements contained in the pleadings in an action to partition real property, a court must determine whether the property is heirs' property. If the court determines that the property is heirs' property, the property must be partitioned, unless all of the cotenants agree otherwise.

Tenants in common may waive the right to compel judicial partition of property upon which an electric generating plant is to be constructed or has been constructed, but the waiver's effective period does not extend beyond the plant's operating life.

The court of common pleas may

- partition "in kind or by allotment" to the parties upon accounting to the other parties in interest; or
- if partition in kind or by allotment cannot be fairly and impartially made without injury to any of the interested parties, sell the property and divide the proceeds according to the parties' rights.

Right of first refusal to purchase property before partition

If a party files a petition for partition of real property owned by tenants in common, the court must allow the nonpetitioning tenants in common who are interested in purchasing the property to notify the court no later than 10 days before the trial date. The nonpetitioning tenants may purchase property interests whether or not default has been entered against them. If the parties

cannot agree on a price, the court must appoint appraisers to determine the value of the interest to be sold. Appraisal costs are taxed as a part of the court costs. If the petitioning tenants in common object to the appraised value, they may file a written objection notice and request a hearing on the value. Once the interest's value has been determined by appraisal or at a hearing, the nonpetitioning tenant in common seeking to purchase the interests of those filing the petition has 45 days to pay the price to the court, at which time the court must deliver the proper instruments transferring title to the purchasers. If the nonpetitioning tenants in common fail to pay the purchase price, the court must "proceed according to its traditional practices in partition sales."

Uniform Partition of Heirs Property Act

South Carolina's Clementa C. Pinckney Uniform Partition of Heirs Property Act applies to partition actions filed on or after January 1, 2017. Pursuant to that act, in an action to partition real property, the court must determine whether the property is heirs property. If the court determines that the property is heirs property, the property must be partitioned under the state's Clementa C. Pinckney Uniform Partition of Heirs Property Act, unless all of the cotenants agree otherwise in a record.

In the context of the act, the term "heirs property" means real property held in tenancy in common that satisfies all of the following requirements:

- there is no agreement in a record binding all the cotenants that governs the property's partition;
- one or more of the cotenants acquired title from a relative; and
- either (i) 20 percent or more of the interests are held by cotenants who are relatives; (ii) 20 percent or more of the interests are held by an individual who acquired title from a relative; or (iii) 20 percent or more of the cotenants are relatives.

Right to purchase at sale for lien enforcement

A tenant in common may purchase the real property held in common at a sale to enforce a lien other than a tax lien. Unless otherwise provided in the judgment or order of sale, the tenant in

common acquires title free and clear of any interests or equities arising from the tenancy in favor of his tenants in common who were "properly before the court."

OTHER INCIDENTS OF OWNERSHIP

Forest renewal program

In the context of forest renewal programs, if forest land is owned jointly as tenants in common or otherwise, the joint owners are considered to be one eligible landowner and are entitled to receive the program's cost-sharing payments.

Statutory sections 15-61-50 and 29-1-20 amended 1962; § 15-61-11 enacted 1979; § 15-61-25 enacted 2006; § 48-28-30 enacted 1981; § 15-61-10 amended 2016; §§ 15-61-320 and 15-61-330 enacted 2016.

[S.C. Code §§ 15-61-10, -11, -25, -50, -320, -330; 29-1-20; 48-28-30 \(2017\)](#)

South Carolina, TIC Sale or Transfer

No specifically relevant provisions were located.

South Dakota

South Dakota, Nonsecuritized TICs

CREATING A TIC

An interest "created in favor of several persons in their own right is an interest in common," unless

- the parties acquired it in partnership or for partnership purposes; or
- it was declared on creation to be a joint interest.

OTHER RELEVANT PROVISIONS

Partnership formation

A tenancy in common does not by itself create a partnership, even if the co-owners share profits made by using the property.

Statutory section 43-2-17 amended 1939; § 48-7A-202 enacted 2001.

[S.D. Codified Laws §§ 43-2-17; 48-7A-202\(c\)\(1\) \(2018\)](#)

South Dakota, State TIC Securities

RELEVANT STATE SECURITIES LAWS

No specifically relevant provisions were located.

However, the South Dakota securities laws defines "security" to include a "fractional undivided interest in oil, gas, or other mineral rights." An issuer of fractional undivided interests in an oil, gas, or other mineral lease, or in production payments, is the "owner of an interest in the lease or in payments out of production . . . that creates fractional interests" for sale purposes.

NO REGISTRATION IN BENEFICIARY FORM

An individual whose security registration shows multiple ownership as tenants in common may not obtain registration in beneficiary form. Multiple owners of a security registered in beneficiary form hold as joint tenants, tenants by the entirety or owners of community property held in survivorship form, not as tenants in common.

Statutory section 29A-6-302 enacted 1995; § 47-31B-102 enacted 2018.

[S.D. Codified Laws §§ 29A-6-302; 47-31B-102 \(2018\)](#)

South Dakota, TIC Ownership

TIC OWNERSHIP LIMITATIONS

Action for waste

If a tenant in common of real property (among other types of joint owners) commits waste, an aggrieved person may bring an action against the tenant. The remedies may include a judgment for

- treble damages;
- forfeiture of the offending party's estate; and
- eviction from the premises.

Statement of abandoned mineral interests claims

In the context of claims for abandoned mineral interests, a statement of claim must be recorded for the mineral interest owner of record within a specified time frame. A joint tenant, but *not* a tenant in common, may record a claim on behalf of himself and other joint tenants.

TIC OWNERSHIP RIGHTS

Action for partition or sale

If several cotenants hold and possess real property as tenants in common or otherwise, and one or more of them have an estate of inheritance for life or for years, one or more of the cotenants may bring an action for

- a partition according to the interested persons' respective rights; and
- a sale of all or part of the property, if a partition would cause "great prejudice to the owners."

The summons must be directed to all tenants in common and others with an interest in the property.

If the court finds it "impracticable or highly inconvenient" to make a complete partition in the first instance, the court may first determine the shares or interests held by the original cotenants and make a partition as if the original cotenants were the only interested parties and the only parties to the action. The court may later partition separately the shares between those claiming under the original tenant or allow them to remain tenants in common, as they desire.

Persons who own as tenants in common property used to generate, transmit or distribute electricity, or to produce, gather, store, process, transmit or distribute manufactured or natural gas, for public consumption may enter into agreements waiving their respective rights to partition the property.

Action to quiet title

Any person or persons that have or claim to have an estate, interest, lien or encumbrance in or on real property may bring an action to quiet title. Any number of persons may be joined as plaintiffs, whether holding as tenants in common or otherwise, provided the demanded relief is common to all of the plaintiffs.

OTHER INCIDENTS OF OWNERSHIP

No relevant provisions were located.

Statutory section 21-41-1 amended 1945; §§ 21-45-1, 21-45-3, and 21-45-16 amended 1960; § 21-7-1 amended 1993; § 49-34-17 enacted 1972; § 43-30A-4 amended 2016.

[S.D. Codified Laws §§ 21-7-1; 21-41-1; 21-45-1, -3, -16; 43-30A-4; 49-34-17 \(2018\)](#)

South Dakota, TIC Sale or Transfer

GENERAL SALE AND TRANSFER PROVISIONS

No relevant provisions were located.

OTHER RELEVANT PROVISIONS

Uniform Real Property Transfer on Death Act

In the context of South Dakota's Real Property Transfer on Death Act, the term "joint owner" includes a joint tenant with a survivorship right, but it does not include a tenant in common.

Statutory section enacted 2014.

[S.D. Codified Laws § 29A-6-402 \(2018\)](#)

Tennessee

Tennessee, Nonsecuritized TICs

CREATING A TIC

No specifically relevant provisions were located.

OTHER RELEVANT PROVISIONS

Partnership formation

A TIC, by itself, does not establish a partnership, even if the co-owners share profits made by using the property.

Statutory section enacted 2001.

Tenn. Code § 61-1-202(c)(1) (LexisNexis 2018)

Tennessee, State TIC Securities

RELEVANT STATE SECURITIES LAWS

No specifically relevant provisions were located.

However, pursuant to the Tennessee Securities Act of 1980, an "issuer" is "every person who issues any security," except that "[w]ith respect to a fractional undivided interest in oil, gas, or other mineral rights, 'issuer' means the owner of such right or of an interest in such right . . . who creates fractional interests therein" for sale purposes.

NO REGISTRATION IN BENEFICIARY FORM

Individuals whose security registration shows multiple ownership as tenants in common may not obtain registration in beneficiary form. Multiple owners of a security registered in beneficiary form hold as joint tenants, tenants by the entireties or owners of community property held in survivorship form, not as tenants in common.

Statutory section 35-12-103 enacted 1995; § 48-1-102 amended 2017.

Tenn. Code §§ 35-12-103; 48-1-102 (LexisNexis 2018)

Tennessee, TIC Ownership

TIC OWNERSHIP LIMITATIONS

No specifically relevant provisions were located.

TIC OWNERSHIP RIGHTS

Action for partition or sale

Any person with an estate "of inheritance, or for life, or for years" in land, as a tenant in common or otherwise with others, may bring an action to partition or sell the property. The chancery court has jurisdiction, concurrent with the circuit and county courts, over proceedings to partition or sell estates by tenants in common.

Ejectment actions

Several parties may be named as plaintiffs, jointly in one count and separately in others, in an ejectment action, but not without the consent of the "party in person," unless that party is a tenant in common with the party bringing the suit. At trial, the plaintiff must show a right to possess the premises. If the action is brought by one or more tenants in common or other joint owners against their cotenants, the plaintiff must prove actual ouster or another act by the defendant that amounts to a denial of the plaintiff's cotenant rights.

OTHER INCIDENTS OF OWNERSHIP

Watershed districts

As used in Tennessee's watershed district statutes, a "landowner" includes tenants in common and other co-owners. When more than one person owns an interest in a particular tract of land, each is deemed to be a "landowner."

Real property subject to forfeiture due to illegal drug-related activities

If the court orders an interest in property owned as tenants in common to be forfeited because of illegal drug-related activities, an innocent spouse of the person whose property interest has been

forfeited has certain rights to the property. If there is no spouse or if the spouse does not pursue his or her rights, then any other person whose property interest has not been forfeited has the first right to purchase the forfeited interest for its fair market value before the court-ordered sale.

Statutory sections 29-15-105, 29-15-107 and 29-27-101 amended 1932; § 69-6-102 amended 1971; § 16-11-111 amended 1976; § 53-11-452 amended 2010.

Tenn. Code §§ 16-11-111; 29-15-105, -107; 29-27-101; 53-11-452(3)(A); 69-6-102(4) (LexisNexis 2018)

Tennessee, TIC Sale or Transfer

GENERAL SALE AND TRANSFER PROVISIONS

No relevant provisions were located.

OTHER RELEVANT PROVISIONS

Real estate transfer tax

The real estate transfer tax is not levied on real estate transfers that "are deeds of division in kind of realty formerly held by tenants in common," among others.

Residential property disclosures

The Tennessee residential property disclosure requirements do not apply to transfers from one or more co-owners solely to one or more co-owners. This provision applies only "where ownership is by a tenancy by the entirety, a joint tenancy or a tenancy in common and the transfer will be made from one (1) or more of the owners to another owner or co-owners holding property either as a joint tenancy, tenancy in common or tenancy by the entirety."

Statutory section 66-5-209 amended 2000; § 67-4-409 amended 2016.

Tenn. Code §§ 66-5-209(4); 67-4-409 (LexisNexis 2018)

Texas

Texas, Nonsecuritized TICs

CREATING A TIC

No relevant provisions were located.

OTHER RELEVANT PROVISIONS

Partnership formation

A TIC, by itself, does not establish a partnership, even if the co-owners share profits made by using the property.

Nonprofit association formation

A TIC, by itself, does not establish a nonprofit association, even if the co-owners share the property's use for a nonprofit purpose.

Statutory sections enacted 2003.

[Tex. Bus. Orgs. Code §§ 152.052\(b\)\(2\); 252.001\(2\) \(2017\)](#)

Texas, State TIC Securities

RELEVANT STATE SECURITIES LAWS

No specifically relevant provisions were located.

However, the Texas Securities Act provides that the act's provisions do not apply to the sales of interests "in and under oil, gas or mining leases, fees or titles, or contracts relating thereto," if

- the total number of sales by any one owner of interests, including undivided interests, in any "single oil, gas or mineral lease, fee or title, or contract relating thereto," does not exceed thirty-five within a 12-month period; and
- no advertising or public solicitation is used.

Voting rights for Jointly Held Ownership Interests

A jointly held ownership interest in a business organization is an ownership interest that is held in the names of two or more persons, including fiduciaries, joint tenants, and tenants in common. A jointly held ownership interest held by tenants in common may be voted by any one of the record owners.

NO REGISTRATION IN BENEFICIARY FORM

No specifically relevant provisions were located.

Statutory section amended 2001.

[Tex Rev. Civ. Stat. art. 581-5\(Q\); Tex. Bus. Orgs. Code § 6.157 \(2017\)](#)

Texas, TIC Ownership

TIC OWNERSHIP LIMITATIONS

No specifically relevant provisions were located.

TIC OWNERSHIP RIGHTS

Action for partition

A joint owner or claimant of real property or of a real property interest may compel a partition of the interest or the property among the joint owners or claimants, and may bring an action to partition the property or interest in a district court of a county in which any part of the property is located.

Adverse Possession by Cotenant Heir

A cotenant heir of real property may acquire the interests of other cotenant heirs through adverse possession. A cotenant heir is defined as "one of two or more persons who simultaneously acquire identical, undivided ownership interests in, and rights to possession of, the same real property by operation of the applicable intestate succession laws of this state or a successor in interest of one of those persons." To adversely possess property against another cotenant heir, the possessing cotenant must do the following for a continuous, uninterrupted 10-year period immediately preceding the filing of the required affidavit:

(A) hold the property in peaceable and exclusive possession;

(B) cultivate, use, or enjoy the property; and

(C) pay all property taxes on the property not later than two years after the date the taxes become due.

The cotenant must also show that no other cotenant heir has: (A) contributed to the property's taxes or maintenance; (B) challenged a possessing cotenant heir's exclusive possession of the property; (C) asserted any other claim against a possessing cotenant heir in connection with the property, such as the right to rental payments from a possessing cotenant heir; (D) acted to preserve the cotenant heir's interest in the property by filing notice of the cotenant heir's claimed interest in the deed records of the county in which the property is located; or (E) entered into a written agreement with the possessing cotenant heir under which the possessing cotenant heir is allowed to possess the property but the other cotenant heir does not forfeit that heir's ownership interest.

OTHER INCIDENTS OF OWNERSHIP

Uniform Partition of Heirs Property Act

Texas enacted the Uniform Partition of Heirs Property Act in 2017, effective September 1, 2017. Pursuant to that act, in an action to partition real property, the court must determine whether the property is heirs property. If the court determines that the property is heirs property, the property must be partitioned under §§23A.006-23A.012, unless all of the cotenants agree otherwise.

Under Texas' Uniform Partition of Heirs Property Act, the term "heirs property" means real property held in tenancy in common that satisfies all of the following requirements:

- (1) there is no agreement in a record binding all the cotenants that governs the partition of the property;
- (2) one or more of the cotenants acquired title from a relative, whether living or deceased; and
- (3) any of the following applies: (a) twenty percent or more of the interests are held by cotenants who are relatives; (b) twenty percent or more of the interests are held by an individual who acquired title from a relative, whether living or deceased; or (c) twenty percent or more of the cotenants are relatives.

Statutory sections 23.001 and 23.002 enacted 1983; §§ 23A.002, 23A.006, and 16.0265 enacted 2017.

[Tex. Prop. Code §§ 23.001, .002 \(2017\)](#); [Tex. Prop. Code §§ 23A.002, .006 \(as enacted by S.B. 499\)](#) (effective September 1, 2017); [Tex. Civ. Prac. & Rem. § 16.0265\(b\) \(as enacted by S.B. 1249\)](#) (effective September 1, 2017).

Texas, TIC Sale or Transfer

No specifically relevant provisions were located.

Note that effective September 1, 2015, the terms "joint owner with right of survivorship" or "joint owner," as used in the Texas Real Property Transfer on Death Act, mean "an individual who owns real property concurrently with one or more other individuals with a right of survivorship." The terms do not include a TIC.

Statutory section enacted 2015.

[Tex. Est. Code § 114.002 \(2017\)](#)

Utah

Utah, Nonsecuritized TICs

CREATING A TIC

Every real estate ownership interest granted to multiple persons who are designated as husband and wife is presumed to be a joint tenancy, unless "severed, converted, or expressly declared in the grant to be otherwise." Every real estate ownership interest that does not qualify for this joint tenancy presumption is presumed to be a TIC interest unless the grant expressly declares otherwise.

Use of the following indicates a joint tenancy: "joint tenancy," "with rights of survivorship" or "and to the survivor of them." The following phrases indicate a TIC: "tenancy in common," "with no rights of survivorship" or "undivided interest." Effective May 10, 2011, use of the words "and/or" in the context of an ownership interest indicates a tenancy in common, unless it is accompanied by joint tenancy language.

OTHER RELEVANT PROVISIONS

Partnership formation

A TIC, by itself, does not establish a partnership, even if the co-owners share profits made by using the property.

Statutory section 48-1d-202 amended and renumbered 2013; § 57-1-5 amended 2011.

[Utah Code §§ 48-1d-202; 57-1-5 \(2018\)](#)

Utah, State TIC Securities

RELEVANT STATE SECURITIES LAWS

Utah Uniform Securities Act (§§ 61-1-13, 57-29-102)

In the context of the Utah Uniform Securities Act, "security" does not include the following, among others:

- a "whole long-term estate in real property";
- an "undivided fractionalized long-term estate in real property" with ten or fewer owners; or
- an "undivided fractionalized long-term estate in real property" with more than ten owners if, when the estate is subject to a management agreement:

- the agreement permits a simple majority of the estate owners not to renew or to terminate the management agreement at the earlier of (a) the end of the management agreement's current term or (b) 180 days after the date the owners give the manager a termination notice; and
- the management agreement prohibits lending the estate's proceeds or using or pledging its assets to a party affiliated with or under common control of the manager.

In this context, an "undivided fractionalized long-term estate" means a real property ownership interest by multiple persons that is a TIC or a fee estate. An "undivided fractionalized long-term estate" does not include a joint tenancy.

For the offer or sale of a real property estate exempted from the definition of "security" under § 61-1-13(1)(ee)(ii)(C), a person who receives compensation in connection with the offer or sale is not an "agent, broker-dealer, investment adviser, or investment adviser representative" under the securities laws if that person is licensed under the real estate laws as:

- a principal broker;
- an associate broker; or
- a sales agent.

Utah Undivided Fractionalized Long-Term Estate Sales Practices Act (ch. 57-29)

Utah enacted an Undivided Fractionalized Long-Term Estate Sales Practices Act, effective May 10, 2016.

Definitions (§ 57-29-102)

The Undivided Fractionalized Long-Term Estate Sales Practices Act defines an "undivided fractionalized long-term estate" as an ownership interest in real property by multiple persons that is:

- a tenancy in common; or
- a fee estate.

An "undivided fractionalized long-term estate" does not include a joint tenancy.

Licensing requirements (§§ 57-29-202, 61-2f-202)

Except as otherwise provided by § 61-2f-202 (regarding persons and transactions exempt from the state's real estate licensing requirements), a person may not "offer, sell, or otherwise dispose of an undivided fractionalized long-term estate" unless the person is licensed as a real estate principal broker, associate broker, or sales agent.

Required disclosures (§ 57-29-203)

A sponsor or licensee who sells or offers to sell an undivided fractionalized long-term estate must provide each prospective purchaser a written disclosure related to the real property that:

- if applicable, includes a copy of any master lease agreement and states whether the sponsor is the master lease tenant or its affiliate;
- includes any material information that relates to a current lease or sublease that affects the real property;

- includes a copy of a tenants-in-common agreement or an agreement that "forms the substance of the undivided fractionalized long-term estate and includes a definition of the undivided fractionalized interest";
- describes any improvements to the real property in which the undivided fractionalized long-term estate is offered;
- includes a copy of any management agreement;
- describes any relationship between each property manager and the sponsor; and
- includes "any additional information that an ordinarily prudent purchaser would consider material to deciding whether to purchase the undivided fractionalized long-term estate, as determined by the commission, with concurrence by the division, by rule."

A sponsor or licensee who sells or offers to sell an undivided fractionalized long-term estate must provide this written disclosure to a prospective purchaser before the prospective purchaser purchases the undivided fractionalized long-term estate.

Investigations (§ 57-29-303)

The real estate division may conduct an investigation to determine whether any person has violated or is about to violate chapter 57-29. The division may also require or permit a person to file a written statement regarding all facts and circumstances concerning the matter to be investigated.

For investigation purposes, the division may:

- administer an oath or affirmation;

- subpoena witnesses and compel a witness's attendance;
- take evidence; or
- require the production, within 10 days, of any information or item relevant to the investigation.

If a person fails to obey a subpoena or other request, the division may file an action in district court for an order compelling compliance.

Enforcement (§ 57-29-304)

If the director believes that a person has been or is engaging in conduct that violates chapter 57-29, the director:

- must issue and serve the person with a cease and desist order; and
- may "order the person to take any action necessary to carry out the purposes" of chapter 57-29.

A person served with an order may request a hearing within 10 days after service, and the director must schedule a hearing to take place no more than 30 days after the day on which the director receives the request. The cease and desist order remains in effect pending the hearing. The division must conduct the hearing in accordance with title 63G, chapter 4, of the Administrative Procedures Act.

If the director finds that the person violated chapter 57-29, the director may issue a final order making the cease and desist order permanent. If the director finds that the person did not violate chapter 57-29, the director must vacate the cease and desist order.

If a person served with an order does not request a hearing and fails to comply with the director's order, the director may file suit in district court to enjoin the person from violating chapter 57-29.

These remedies and actions are in addition to any other remedies or actions available under § 57-29-305.

Voidable agreements (§ 57-29-305)

If a sponsor violates chapter 57-29 in entering into an agreement to purchase an undivided fractionalized long-term estate, the purchaser:

- may rescind the agreement at any time before the closing; and
- is entitled to all the consideration that the purchaser gave under the rescinded agreement.

In an action to enforce a purchaser's right of rescission, the court must award costs and reasonable attorney fees to the prevailing party.

Regulatory disclosure requirements (r. 162-27-307)

A person who sells or offers to sell an undivided fractionalized long-term estate must disclose to each prospective purchaser certain information related to the real property. A real estate licensee who markets an undivided fractionalized long-term estate must obtain the required information from the sponsor or seller and provide it to each prospective purchaser. The information, which must be disclosed in written or documented form and provided to the purchaser before purchasing, must include the following for all undivided fractionalized long-term estates:

- a brief account describing the sponsor's professional qualifications, background, and experience;

- any material information that relates to a current lease or sublease that affects the real property;
- the "tenant in common agreement or other agreement that forms the substance of the undivided fractionalized long-term estate and includes a definition of the undivided fractionalized interest";
- a description of any improvements to the real property;
- any "defects in the property known by the sponsor that may materially affect" the property's value;
- "material information known by the sponsor concerning any environmental issues affecting the real property"; and
- a preliminary title report.

Additional disclosures are required if the undivided fractionalized long-term estate includes:

- "management of the real property by the sponsor or an affiliate of the sponsor in accordance with UCA Section 61-1-13(1)(ee)(ii)(C)(II) and (III)";
- multiple tenants;
- debt on the real property; or
- a master lease agreement.

NO REGISTRATION IN BENEFICIARY FORM (§ 75-6-303)

Individuals whose security registration shows multiple ownership as tenants in common may not obtain registration in beneficiary form. Multiple owners of a security registered in beneficiary form hold as joint tenants, tenants by the entireties, or owners of community property held in survivorship form, not as tenants in common.

Statutory section 75-6-303 enacted 1995; numerous previously applicable sections in ch. 61-2f were repealed (§ 61-2f-307) or amended so as to be no longer relevant to this report (§§ 61-2f-102, 61-2f-402, 61-2f-407) in 2016; § 61-1-13 amended 2016; §§ 57-29-102, 57-29-202, 57-29-203, 57-29-303, 57-29-304, and 57-29-305 enacted 2016; § 61-2f-202 amended 2018. Regulatory chapter amended 2016.

[Utah Code §§ 57-29-102, -202, -203, -303, -304, -305; 61-1-13; 61-2f-202; 75-6-303 \(2018\); Utah Admin. Code r. 162-2f-307 \(2018\)](#)

Utah, TIC Ownership

TIC OWNERSHIP LIMITATIONS

Action for waste

If a tenant in common of real property commits waste on the property, any aggrieved person may bring an action, in which the judgment may include treble damages.

TIC OWNERSHIP RIGHTS

Action for partition or sale

A person who is a tenant in common with another may bring an action to partition the property for each tenant's benefit. A partition action may require the sale of the property if it appears that a partition would prejudice the owners.

If several cotenants hold and possess real property as tenants in common, and one or more has an "estate of inheritance, or for life or lives, or for years," one or more of the cotenants may bring an action for

- a partition of the property according to the interested persons' respective rights; and
- a sale of all or part of the property, if it appears that a partition would cause "great prejudice" to the owners.

The summons must be directed to all tenants in common, all persons having any interest in or recorded liens on the property, and any other person claiming an interest in the property.

If the court finds that it is "impracticable or highly inconvenient to make a complete partition" among all the interested parties, the court may first determine the portion held by the original cotenants as if they were the only parties in interest and the only parties to the action. After that initial partition, the court may partition separately each portion allotted among those "claiming under a specific tenant whose interest was [already] determined . . . unless the parties choose to remain as tenants in common."

If the court finds that the property cannot be partitioned without "great prejudice to the owners," the court may order a sale of the property. If the court determines that the property may be partitioned, it must order a partition according to the parties' respective rights, appoint three referees to do the partition, and designate the portion to remain undivided for the owners whose interests are unknown or not ascertained.

If the action is for partition of a mining claim among tenants in common, the court, upon good cause, may, instead of ordering a partition or sale of the premises, direct the referees to divide the claim.

The referees must divide the property among the respective parties as determined by the court. The referees must locate each cotenant's share, including, if possible, that cotenant's improvements to the property. The value of the improvements made by the tenants in common must be excluded from the valuation "if it can be done without material injury to the rights and interests of the other tenants in common, unless the action is for partition of a mining claim.

Lien for costs and expenses

The court shall allow expenses incurred (including attorney fees) prosecuting or defending other actions or proceedings by one tenant in common to

- protect, confirm, or perfect the title;
- set the boundaries; or
- make a survey of the estate partitioned.

The court must determine the amounts with interest from the date the expenses occurred. The costs must be:

- pleaded and allowed by the court;
- included in the final judgment;
- a lien on each tenant's share, in proportion to his or her interest; and
- enforced in the same manner as taxable partition costs are taxed and collected.

OTHER INCIDENTS OF OWNERSHIP

Creditors' rights

If an individual and another own property as tenants in common, the individual's creditor, subject to the individual's right to claim an exemption, may obtain a levy on and sale of the individual's property interest. A creditor who has obtained a levy, or a purchaser who has purchased the individual's interest at the sale, may have the property partitioned or the individual's interest

severed.

Theft of utility or cable-television services

In the Utah statutes addressing the theft of utility or cable-television services, "owner" includes a tenant in common of all or a part of any building and the property on which it is located.

Property tax act

In determining a "residence" as used in the property tax, a dwelling may be "owned" by one or more tenants in common.

Statutory section 76-6-409.3 amended 2010; §§ 78B-5-512, 78B-6-1001, 78B-6-1205, 78B-6-1209, 78B-6-1212, 78B-6-1213, and 78B-6-1245 recodified, amended, and renumbered 2008; § 78B-6-1201 enacted 2008; § 59-2-1202 amended 2017.

[Utah Code §§ 59-2-1202\(9\)\(c\); 76-6-409.3; 78B-5-512; 78B-6-1001, -1201, -1205, -1209, -1212, -1213, -1245 \(2018\)](#)

Utah, TIC Sale or Transfer

No specifically relevant provisions were located.

Vermont

Vermont, Nonsecuritized TICs

CREATING A TIC

A land conveyance to multiple persons is deemed to create a TIC, unless the document expressly provides otherwise. However, this provision does not apply to

- devises or conveyances made in trust;
- devises or conveyances made to a husband and wife; or

- a conveyance in which it "manifestly appears" from the instrument's "tenor" that the parties intended to create a joint tenancy.

OTHER RELEVANT PROVISIONS

Partnership formation

A TIC does not, by itself, establish a partnership, even if the co-owners share profits made by using the property.

Statutory section 3212 enacted 1997; § 2 amended 2003.

[Vt. Stat. tit. 11, § 3212\(c\)\(1\); tit. 27, § 2\(a\) \(2017\)](#)

Vermont, State TIC Securities

RELEVANT STATE SECURITIES LAWS

No specifically relevant provisions were located.

However, the Vermont Uniform Securities Act (2002) defines "security" to include a "fractional undivided interest in oil, gas, or other mineral rights." An issuer of fractional undivided interests in an oil, gas, or other mineral lease, or in production payments, is the "owner of an interest in the lease or in payments out of production . . . that creates fractional interests" for sale purposes.

NO REGISTRATION IN BENEFICIARY FORM

Individuals whose security registration shows multiple ownership as tenants in common may not obtain registration in beneficiary form. Multiple owners of a security registered in beneficiary form hold as joint tenants or tenants by the entireties, not as tenants in common.

Statutory section 4352 enacted 1999; § 5102 amended 2005.

[Vt. Stat. tit. 9, §§ 4352, 5102 \(2017\)](#)

Vermont, TIC Ownership

TIC OWNERSHIP LIMITATIONS

No specifically relevant provisions were located.

TIC OWNERSHIP RIGHTS

Action for partition or sale

Any person holding real estate with others as tenants in common may partition the interest.

Action for accounting

If one tenant in common brings an action for accounting against a cotenant for receiving more than his or her share of any estate or interest, and if the cotenant pleads an answer which, if true, makes him or her not liable, the issue may be tried to a jury. Similarly, in any action for an accounting maintained by one or more tenants in common or joint tenants to settle and adjust their accounts and dealings, the defendant has the right to a trial by jury.

Ejectment actions

A person claiming possession of land may bring an ejectment action, and tenants in common may join in an action "concerning their common interest" in the land.

OTHER INCIDENTS OF OWNERSHIP

Levy of execution

If a debtor's real estate is held in a TIC with the real estate of other persons, an officer may levy the execution on the debtor's undivided interest in the property, and sell it as other real estate may be sold.

Public power supply authority

If the public power supply authority has an interest as a tenant in common with others in any Vermont project, the other owner's surrender or waiver of its partition rights for a period no longer than the time during which the property is used for electric utility purposes is not invalid and unenforceable

- because of that time period's length; or
- as unduly restricting the property's alienation.

Homestead property tax adjustments

In determining a homestead property tax income sensitivity adjustment, if a homestead is owned by multiple persons as tenants in common and one or more of the persons are not members of the claimant's household, the property tax is generally "the same proportion of the property tax levied on that homestead as the proportion of ownership of the homestead by the claimant and members of the claimant's household," except under certain specified situations.

Statutory sections 5161 and 2785 enacted 1947; § 4257 amended 1971; § 4251 amended 2009; §§ 5012 and 6062 amended 2010; § 4761 amended 2016.

[Vt. Stat. tit. 12, §§ 2785, 4251, 4257, 4761, 5161; tit. 30, § 5012\(12\); tit. 32, § 6062 \(2017\)](#)

Vermont, TIC Sale or Transfer

GENERAL SALE AND TRANSFER PROVISIONS

No specifically relevant provisions were located.

OTHER RELEVANT PROVISIONS

Real estate transfer tax

Transfers by partition among co-owners of TICs are exempt from the property transfer tax as long as

- the parties exchange no consideration; and
- the property transferred to each owner represents that owner's proportionate interest in the property.

Mobile home park sales

A mobile home park owner generally must give each leaseholder notice of any intention to sell the mobile home park, but that requirement does not apply if the park's sale, transfer or conveyance is between tenants in common.

Statutory section amended 2012. Regulation adopted 1979.

[Vt. Stat. tit. 10, § 6242 \(2017\)](#); 10-060-025 Vt. Code R. § 1.9603(8) (LexisNexis 2018)

Virgin Islands

Virgin Islands, Nonsecuritized TICs

CREATING A TIC

Generally, a conveyance or devise of property made to multiple persons, other than to executors and trustees, creates a TIC, unless the conveyance or devise expressly provides that the grantees or devisees take as joint tenants. However, a conveyance or devise of real property to a husband and wife creates an estate by the entirety unless otherwise provided.

OTHER RELEVANT PROVISIONS

Partnership formation

A TIC, by itself, does not create a partnership, even if the co-owners share profits made by using the property.

Statutory section 7 enacted 1921; § 22 enacted 1998.

V.I. Code tit. 26, § 22; tit. 28, § 7(b), (c) (LexisNexis 2018)

Virgin Islands, State TIC Securities

RELEVANT STATE SECURITIES LAWS

No specifically relevant provisions were located.

However, the Virgin Islands Uniform Securities Act defines "security" to include a "fractional undivided interest in oil, gas, or other mineral rights." An issuer of fractional undivided interests in

an oil, gas, or other mineral lease, or in production payments, is the "owner of an interest in the lease or in payments out of production . . . that creates fractional interests" for sale purposes.

NO REGISTRATION IN BENEFICIARY FORM

Only individuals with a security registration that shows sole ownership by one individual or multiple ownership by two or more with right of survivorship, rather than as tenants in common, may obtain registration in beneficiary form. Multiple owners of a security registered in beneficiary form hold as joint tenants with right of survivorship, as tenants by the entireties, or as owners of community property held in survivorship form, not as tenants in common.

Statutory section 602 enacted 2004; § 682 enacted 2016.

V.I. Code tit. 9, §§ 602, 682 (as enacted by 2016 V.I. Sess. Laws ch. 7851) (LexisNexis 2018)

[Virgin Islands, TIC Ownership](#)

TIC OWNERSHIP LIMITATIONS

Action for waste

If a tenant in common for life or for years commits waste on the real property held in common, any person injured by the waste may bring an action for damages against the tenant. The resulting judgment may be for:

- treble damages;
- forfeiture of the estate of the party that committed or permitted the waste; and
- eviction from the property.

However, forfeiture and eviction may only be given in favor of the "person entitled to the reversion against the tenant in possession" if the injury is:

- equal to the value of the tenant's estate or unexpired term; or
- "done or suffered in malice."

TIC OWNERSHIP RIGHTS

Action for partition

If several persons hold and possess real property as tenants in common, and one or more has an "estate of inheritance, or for life or years," or if several persons hold as tenants in common a "vested remainder or reversion in any real property," any one or more of the tenants may maintain an action for:

- the partition of the property according to the interested parties' respective rights; and
- a sale of all or part of the property, if a partition would cause "great prejudice" to the owners.

The summons must name all known tenants in common and all unknown persons having or claiming an interest or estate in the property.

Action against a cotenant

In an action by a real property tenant in common, the plaintiff must show:

- evidence of his or her possession rights; and
- that the defendant either denied the plaintiff's right or did an act that amounted to a denial.

Remedies of tenants in common

A tenant in common may maintain an action against a cotenant for receiving more than his or her share of the rents or profits of the estate they own in common.

OTHER INCIDENTS OF OWNERSHIP

No relevant provisions were located.

Statutory sections enacted 1921.

V.I. Code tit. 28, §§ 7, 291, 334, 451, 454 (LexisNexis 2018)

[Virgin Islands, TIC Sale or Transfer](#)

No specifically relevant provisions were located.

[Virginia](#)

[Virginia, Nonsecuritized TICs](#)

CREATING A TIC

No specifically relevant provisions were located.

OTHER RELEVANT PROVISIONS

A TIC, by itself, does not establish a partnership, even if the co-owners share profits made by using the property.

Statutory section amended 2015.

[Va. Code § 50-73.88 \(2018\)](#)

Virginia, State TIC Securities

RELEVANT STATE SECURITIES LAWS

No specifically relevant provisions were located.

NO REGISTRATION IN BENEFICIARY FORM

An individual whose security registration shows multiple ownership as tenants in common may not obtain registration in beneficiary form. Multiple owners of a security registered in beneficiary form hold as joint tenants, tenants by the entireties, or owners of community property held in survivorship form, not as tenants in common.

Statutory section amended and renumbered 2012.

[Va. Code § 64.2-613 \(2018\)](#)

Virginia, TIC Ownership

TIC OWNERSHIP LIMITATIONS

Action for waste

A tenant in common who commits waste is liable to his cotenants for damages.

TIC OWNERSHIP RIGHTS

Action for partition

Tenants in common may compel partition. A lien creditor or any owner of an undivided estate in real estate may also compel partition to satisfy his lien with his debtor's estate.

If partition cannot be "conveniently made,"

- the entire property may be allotted to any parties who will accept it and pay the other parties for it according to their interests; or
- if the entitled parties' interests "will be promoted by a sale of the entire subject, or allotment of part and sale of the residue," the court may order a sale, or an allotment of a part, to any parties who will accept it and pay the other parties for it according to their interests, with a sale of the residue, distributing those proceeds, according to the parties' rights.

If there is a partition of real estate owned by multiple persons as tenants in common, and taxes, penalties, interest, levies or assessments of any kind, are charged against the estate, the court, on motion, must determine the portion of that amount that should be paid by each person on the portion of the real estate set off or allotted to him. Once a person has paid his or her share, that portion of the real estate will be free from the tax, penalties, interest, levy or assessments. The portions set off or allotted to the persons who did not pay their share is charged with the amounts remaining unpaid.

Actions against a cotenant

In an action by one or more tenants in common against their cotenants, the plaintiff must prove

- actual ouster; or
- some other act amounting to a total denial of the plaintiff's cotenant rights.

Accounting rights

An accounting may be had against one tenant in common for receiving more his or her "just share."

OTHER INCIDENTS OF OWNERSHIP

Electric authority waivers

The authority may own a project as a tenant in common with any other unit or units, whether public or private. If so, the parties may waive their right to partition the property for "a period not exceeding the period for which the property is used or useful for electric utility purposes."

Tax liens

A tax lien on real estate owned by multiple persons as tenants in common or otherwise is not "impaired" if the real estate is assessed in one owner's name with a notation such as "and another," "and others," "and wife" or "and husband."

Authority mortgage loans

A borrower eligible for an authority mortgage loan does not include any borrower who, at any time during the preceding three years, had a "present ownership interest" in his principal residence. "Present ownership interest" includes a TIC, among other ownership forms.

Value of estate for estate tax purposes

Assets owned as tenants in common are included in the value of an estate for estate tax purposes to the extent of the deceased tenant's interest.

Statutory section 55-212 enacted 1919; §§ 8.01-31, 8.01-83, and 8.01-141 amended 1977; §§ 8.01-81 and 58.1-3225 amended 1984; § 15.2-5406 amended 2006; § 58.1-3343 amended 2013. Regulation 10-310-30 amended 2017; r. 10-40-50 amended 2009.

[Va. Code §§ 8.01-31, -81, -83, -141; 15.2-5406\(6\); 55-212; 58.1-3225; -3343 \(2018\); 13 Va. Admin. Code § 10-40-50\(B\)\(1\)\(b\); 23 Va. Admin. Code § 10-310-30\(4\) \(2018\)](#)

Virginia, TIC Sale or Transfer

GENERAL SALE AND TRANSFER PROVISIONS

No relevant provisions were located.

OTHER RELEVANT PROVISIONS

Uniform Real Property Transfer on Death Act

In the context of Virginia's Uniform Real Property Transfer on Death Act, the term "joint owner" includes a joint tenant or a tenant by the entirety with a survivorship right, but it does not include a tenant in common.

Recordation tax

Effective July 1, 2016, Virginia's recordation tax does not apply to a deed that is, or acts as, a partition deed among joint tenants, tenants in common, or coparceners.

Statutory section 64.2-621 enacted 2013; § 58.1-811 amended 2018.

[Va. Code §§ 58.1-811, 64.2-621 \(2018\)](#)

Washington

Washington, Nonsecuritized TICs

CREATING A TIC

An interest created in favor of multiple persons is an interest in common, unless

- acquired in partnership or for partnership purposes;
- declared to be a joint tenancy; or
- acquired by executors or trustees.

Interests in common held by both spouses or, effective June 12, 2008, by both domestic partners, whether or not with others, are presumed to be community property.

OTHER RELEVANT PROVISIONS

Title registration

If multiple persons are registered owners as tenants in common or otherwise, a duplicate owner's certificate may be issued

- for the entirety; or

- to each owner for his or her undivided share.

Partnership formation

A TIC does not by itself create a partnership, even if the co-owners share profits made by using the property.

Section 65.12.265 amended 2012; § 64.28.020 amended 2008; § 25.05.055 enacted 1998.

[Wash. Rev. Code §§ 25.05.055\(2\)\(a\); 64.28.020\(1\), \(2\); 65.12.265 \(2018\)](#)

Washington, State TIC Securities

RELEVANT STATE SECURITIES LAWS

No specifically relevant statutes or regulations were located. However, the Washington Department of Financial Institutions has issued an "Alert" that specifically provides that TICs may "constitute 'securities' under the 'investment contract' test." Thus, persons selling interests that are securities must comply with the Securities Act of Washington, including the requirement that the securities must be either registered or exempt. Note that this alert is no longer readily available on the department's website.

Also, the Securities Act of Washington defines "security" to include a "fractional undivided interest in oil, gas, or other mineral lease or in payments out of production under a lease, right, or royalty."

NO REGISTRATION IN BENEFICIARY FORM

Individuals whose security registration shows multiple ownership as tenants in common may not obtain registration in beneficiary form. Multiple owners of a security registered in beneficiary form hold the security as joint tenants, not as tenants in common.

Statutory section 21.35.010 enacted 1993; § 21.20.005 amended 2011. Alert issued 2005.

[Wash. Rev. Code §§ 21.20.005, 35.010 \(2018\)](#); Wash. Dep't of Fin. Inst., *Alert: Tenancy-in-Common Interests as "Securities"* (Sept. 8, 2005) (last visited Mar. 8, 2013)

Washington, TIC Ownership

TIC OWNERSHIP LIMITATIONS

Action for waste

If a tenant in common for life or for years commits waste on the real property, any injured person may maintain an action for damages against the tenant. If the plaintiff prevails, the court may

- award a judgment for the greater of treble damages or \$50 dollars;
- decree "forfeiture of the estate of the party committing or permitting the waste"; and
- evict the tenant from the property.

The judgment must include, as part of the prevailing party's costs, reasonable attorney's fees, as set by the court.

The court may order forfeiture and eviction only if

- the estate's injury is equal to the value of the tenant's estate or unexpired term; or
- the waste was done or suffered in malice.

TIC OWNERSHIP RIGHTS

Title Registration

The owner of any estate or interest in land (except unpatented land) may apply to have the title registered, but joint tenants and tenants in common must join in the application.

Action for partition or sale

If several persons hold and possess real property as tenants in common, in which "one or more of them have an estate of inheritance, or for life or years," one or more of the parties may maintain an action

- to partition the property according to the interested parties' respective rights; and
- to sell all or part of the property, if a partition cannot be made without "great prejudice to the owners."

The notice must be directed to all known tenants in common, among other parties.

Action against a cotenant

In an action by a tenant in common of real property against a cotenant, the plaintiff must show

- his or her "evidence of right"; and
- that the defendant either denied the plaintiff's right or did an act that amounted to a denial.

Redemption rights

Real property upon which delinquency certificates have been issued may be redeemed as provided by statute, and tenants in common or joint tenants may redeem their individual interests in the manner and under the terms generally specified by statute for the redemption of real property.

OTHER INCIDENTS OF OWNERSHIP

Merger of minor irrigation districts

To institute proceedings to merge a minor irrigation district into a major irrigation district, the minor district's board of directors may obtain a petition requesting the major district's board to consider the merger. The petition must be signed by a specified number of land owners, and in determining that number, two or more persons or entities holding property as tenants in common, or in other forms of joint ownership, are considered a single landowner, and one of the jointly owned property's co-owners may sign the petition.

Forestry riparian easements

If more than one person has an interest in property to be covered by a forestry riparian easement, all persons holding rights to control or affect the easement premises and the qualifying timber must:

- execute the easement documents; or
- subordinate their interests to the state's easement interest.

This includes tenants in common and other joint owners.

Payment of property taxes

Any person desiring to pay taxes on an undivided real property interest may do so by paying an amount equal to their proportion of the taxes charged on the entire tract.

Statutory section 7.28.240 amended 2011; §§ 7.52.010 and 7.52.040 amended 1881; § 65.12.005 amended 2012; § 64.12.020 amended 1943; § 87.03.845 amended 2001; § 84.56.340 amended 2003; § 84.64.070 amended 2015. Regulation 222-21-032 amended and renumbered 2012.

[Wash. Rev. Code §§ 7.28.240; 7.52.010, .040; 64.12.020; 65.12.005; 84.56.340; 84.64.070; 87.03.845 \(2018\); Wash. Admin. Code 222-21-032 \(2018\)](#)

Washington, TIC Sale or Transfer

GENERAL SALE AND TRANSFER PROVISIONS

No specifically relevant provisions were located.

OTHER RELEVANT PROVISIONS

Real estate excise taxes

When determining excise taxes on real estate sales, the term "sale" does not include the partition of property by tenants in common, among other things.

Also, the real estate excise tax does not apply to

- a real property transfer that creates a TIC or a joint tenancy, provided no consideration passes; and
- a partition by tenants in common or joint tenants if the transfer is without additional consideration.

However, a sale of a real property interest from one or more tenants in common to the remaining tenants or to a third party is taxable.

A real property transfer is also exempt from the real estate excise tax if it consists of a "mere change in identity or form of ownership of an entity." This "mere change" includes, among other things:

- the transfer by tenants in common to a corporation or other entity if the entity receiving the ownership interest receives the same shares as the tenants in common held before the transfer; and
- the transfer by a corporation or other entity of its real property interest to its shareholders or partners, who will hold the property either as individuals or as tenants in common in the same pro rata share as they owned the corporation or other entity.

If a property transfer is to two or more buyers, the real estate excise tax affidavit must

- state the relationship between the parties, as tenants in common or otherwise; and
- identify each party's interest form and proportion.

Washington uniform real property transfer on death act

In the context of Washington's uniform real property transfer on death act, the term "joint owner" includes a joint tenant with a right to survivorship, but it does not include a tenant in common or a community property owner.

Statutory section 82.45.010 amended 2018; § 64.80.010 enacted 2014. Regulation 458-61A-204 adopted 2005; r. 458-61A-211(2) amended 2010; r. 458-61A-303 amended 2014.

[Wash. Rev. Code §§ 64.80.010; 82.45.010\(3\)\(e\) \(2018\); Wash. Admin. Code 458-61A-204, -211\(2\), -303 \(2018\)](#)

West Virginia

West Virginia, Nonsecuritized TICs

CREATING A TIC

No specifically relevant provisions were located.

OTHER RELEVANT PROVISIONS

Partnership formation

A TIC, by itself, does not establish a partnership, even if the co-owners share profits made by using the property.

Nonprofit association formation

A TIC, by itself, does not establish a nonprofit association, even if the co-owners share the property's use for a nonprofit purpose.

Statutory sections enacted 1995.

[W. Va. Code §§ 36-11-1; 47B-2-2\(c\)\(1\) \(2017\)](#)

West Virginia, State TIC Securities

RELEVANT STATE SECURITIES LAWS

No specifically relevant provisions were located.

NO REGISTRATION IN BENEFICIARY FORM

Individuals whose security registration shows multiple ownership as tenants in common may not obtain registration in beneficiary form. Multiple owners of a security registered in beneficiary form hold as joint tenants, tenants by the entireties or owners of community property held in survivorship form, not as tenants in common.

Statutory section enacted 1994.

[W. Va. Code § 36-10-2 \(2017\)](#)

West Virginia, TIC Ownership

TIC OWNERSHIP LIMITATIONS

Action for waste

If a tenant in common commits waste, he is liable to his cotenants, jointly or severally, for damages.

TIC OWNERSHIP RIGHTS

Action for partition or sale

Tenants in common of real property, including minerals and lessees of mineral rights (other than oil and gas) may be compelled to make partition.

If partition cannot be "conveniently made,"

- the entire property may be allotted to any party or parties who will accept it and pay the other parties the sum their interests entitle them to; or

- if the interests of one or more of those who are entitled to the subject, or its proceeds, will be promoted by a sale of all or part of the property and the interest of the other entitled persons will not be prejudiced, the court may order a sale, or a sale and allotment, and distribute the sale proceeds, according to the entitled parties' respective rights.

Ouster actions

If an ouster action is brought by one or more tenants in common against their cotenants, the plaintiff must prove actual ouster or an act amounting to a total denial of the plaintiff's cotenant rights.

Action of account against a cotenant

One tenant in common may bring an action of account against another tenant for receiving more than his just share.

OTHER INCIDENTS OF OWNERSHIP

Spousal rights

"Marital property" includes all property and earnings acquired by either spouse during a marriage, even if held by the parties in some form of co-ownership, such as a TIC.

Drilling operations and other permits

If surface lands are owned by multiple parties as tenants in common, any claim for compensation arising out of drilling operations is for the benefit of all co-owners. In this context, notices must be given to surface owners, and if more than three tenants in common or other co-owners hold interests in the lands, the developer may give such notice to the person listed in the sheriff's records. A similar notice requirement applies to co-owners under the state's coalbed-methane permit and proposed well-work provisions.

Mineral development by a majority of cotenants

The 2018 Cotenancy Modernization and Majority Protection Act (to be codified as W. Va. Code ch. 37B) governs the rights of cotenants who consent in writing to a "lawful use of the mineral property through a bona fide lease made in an arms-length transaction" and the rights of "an owner who for any reason chooses not to consent to a lawful use of the mineral property agreed to by the consenting cotenants owning, cumulatively, at least an undivided three-fourths interest in and to the mineral property."

Tax relief for elderly homeowners

In determining whether a homeowner qualifies for tax relief for the elderly, if a homestead is owned by a claimant and a person or persons (other than the claimant's spouse) as joint tenants or tenants in common, and the other persons do not reside in the homestead, then the property taxes the claimant paid are generally prorated according to the claimant's ownership percentage of the homestead.

Statutory sections 55-8-13, 37-7-2, and 55-4-15 amended 1923; § 37-4-3 amended 1957; § 11-25-2 amended 1991; §§ 22-7-5, 22-21-9, and 22-6-9 enacted 1994; § 48-1-233 enacted 2001; § 37-4-1 enacted 2003; § 37-7-2 amended 2018; Chapter 37B enacted 2018, effective June 3, 2018.

[W. Va. Code §§ 11-25-2; 22-6-9; 22-7-5; 22-21-9; 37-4-1, -3; 37-7-2](#) (as amended by [2018 W. Va. Laws ch. 149 \(H.B. 4268\)](#)); [48-1-233](#); [55-4-15](#); [55-8-13 \(2017\)](#); [2018 W. Va. Laws ch. 149 \(H.B. 4268\)](#)) (to be codified as W. Va. Code ch. 37B)

West Virginia, TIC Sale or Transfer

No specifically relevant provisions were located.

Wisconsin

Wisconsin, Nonsecuritized TICs

CREATING A TIC

Generally, multiple persons named as owners in a title document, as transferees in a transfer instrument or as buyers in a bill of sale are tenants in common. Each tenant in common has an

undivided interest in the entire property for the tenancy's duration without a survivorship rights. However, if the parties are identified as husband and wife in the document, they are joint tenants unless the document expresses an intent to create a TIC.

The extent of the tenants' undivided interests in a TIC is determined by the intent expressed in the title document, transfer instrument or bill of sale. If no intent is expressed, tenants in common are presumed to own equal undivided interests for the TIC's duration.

If persons named as owners in a title document of title, transferees in a transfer instrument, or buyers in a bill of sale are domestic partners, they are joint tenants, unless the intent to create a tenancy in common is expressed in the document.

OTHER RELEVANT PROVISIONS

Partnership formation

A TIC does not, by itself, establish a partnership, even if the co-owners share profits made by using the property.

Nonprofit association formation

A TIC does not, by itself, establish a nonprofit association, even if the co-owners share the property's use for a nonprofit purpose.

Statutory section 700.20 enacted 1971; § 700.18 enacted 1991; § 700.19 amended 2009; § 184.01 amended 1997; § 700.17 amended 1999; previously applicable § 178.04 repealed 2016; § 178.0202 enacted 2016 (recreated from previously applicable chapter 178).

[Wis. Stat. §§ 178.0202\(3\); 184.01\(2\); 700.17\(3\), .18, .19, .20 \(2018\)](#)

Wisconsin, State TIC Securities

RELEVANT STATE SECURITIES LAWS

No specifically relevant provisions were located.

However, the Wisconsin Uniform Securities Law defines "security" to include a "fractional undivided interest in oil, gas, or other mineral rights." An issuer of fractional undivided interests in an oil, gas, or other mineral lease, or in production payments, is the "owner of an interest in the lease or in payments out of production . . . that creates fractional interests" for sale purposes.

NO REGISTRATION IN BENEFICIARY FORM

Individuals whose security registration shows multiple ownership as tenants in common may not obtain registration in beneficiary form. Multiple owners of a security registered in beneficiary form hold as joint tenants, tenants by the entireties, or owners of community property held in survivorship form, not as tenants in common.

Statutory section 705.22 enacted 1989; § 551.102 amended 2013.

[Wis. Stat. §§ 551.102; 705.22 \(2018\)](#)

Wisconsin, TIC Ownership

TIC OWNERSHIP LIMITATIONS

Action for waste

A tenant in common who commits waste is subject to a suit by the cotenants.

Liability for construction liens

In the context of construction lien liability, agency is presumed among tenants in common in the absence of clear and convincing evidence to the contrary.

Liability among cotenants for rents and profits.

In the absence of a valid agreement to the contrary, "proportionate share" means the share determined by the extent of a tenant in common's undivided interest.

If land belonging to cotenants is rented to a third party, any cotenant may recover his or her proportionate share of the rents collected by another cotenant, after deducting property taxes, maintenance costs and other proper charges related to the property.

If land belonging to cotenants is occupied by one cotenant (and not another), the cotenant not occupying the premises may recover from the occupying cotenant a proportionate share of the land's reasonable rental value that accrued after written demand for rent, provided the occupying tenant shows that he or she intends to occupy the premises to the exclusion of the other cotenants.

A cotenant may recover a proportionate share of the net profits if the occupying cotenant "engages in mining, cutting of timber, removal of sand or gravel, or any similar operation resulting in diminution of the value of the premises." In that case, the occupying cotenant

- must give the other cotenant an accounting, showing all receipts and expenditures; and
- may deduct a reasonable amount for services he or she provided, except that the other cotenant may elect to recover that cotenant's proportionate share of the amount he or she can show would have been received if a third party had carried on the same operation.

If one cotenant has leased the premises from another cotenant, upon the lease's expiration, the leasing cotenant is presumed to hold over, unless he or she sends the other cotenant a notice to the contrary before the lease expires.

TIC OWNERSHIP RIGHTS

Possession rights

If a tenant in common brings an action to recover possession against a cotenant, the plaintiff must prove that the defendant

- ousted the plaintiff; or
- did an act that denied the plaintiff his or her rights as a cotenant.

Action by one tenant in common

One tenant in common may maintain an action against a cotenant for receiving more than his or her "just proportion" of the estate's rents or profits.

Action for partition or sale in closing estates

The court assigning property to persons as joint tenants or tenants in common may partition it among those persons if all interested parties petition to have the property partitioned. The petition must state the manner in which the property is to be divided and the agreement of all interested persons. Property held by the state and individuals as tenants in common may also be partitioned.

Redemption rights

A tenant in common may redeem his or her share or interest of property by paying to purchaser or officer, the amount that bears the "same proportion to the whole sum bid therefor as the redeemed share bears to the whole number of shares in such premises," with interest.

OTHER INCIDENTS OF OWNERSHIP

Homestead credits (§ 71.52(3), (7))

For the purposes of determining homestead credits, "homestead" includes certain dwellings, including those owned as joint tenant or tenants in common. If multiple parties own a homestead as joint tenants or tenants in common or as marital property and one or more of the owners is not a member of the claimant's household, "property taxes accrued" generally

equals that part of property taxes levied on the homestead, reduced by the tax credit, that reflects the ownership percentage of the claimant and the claimant's household.

Farmland preservation credits (§ 71.58(8))

In determining farmland preservation credits, if multiple parties own farmland as joint tenants, tenants in common or partners, or as marital property, and one or more of the owners is not a member of the claimant's household, "property taxes accrued" is that part of property taxes levied on the farmland, reduced by the applicable tax credit, that reflects the ownership percentage of the claimant and the claimant's household. "Property taxes accrued" may not exceed \$6,000.

Enforcing judgments against homesteads

When enforcing judgments against a homestead, certain owner-occupied homesteads are exempt from execution, liens and the owner's debts "to the amount of \$75,000," except as otherwise provided. The exemption includes property owned by a husband and wife jointly or in common. Each spouse may claim a homestead exemption of no more than \$75,000. The exemption also extends to the interests of tenants in common who have a homestead on the property with their cotenants' consent.

Petitions for detachment of farmlands from cities

In petitions for detaching farmlands from cities, a tenant in common or a joint tenant is considered an owner to the extent of his or her interest.

Annexation initiated by property owners (§ 66.0217(1))

In the context of annexation initiated by electors and property owners, a tenant in common or joint tenant is an owner to the extent of his or her interest.

Farmland tax relief credits (§§ 71.07(3m) (individuals); 71.28(2m) (corporate taxes); 71.47(2m) (insurance companies)

In determining farmland tax relief credits, if the farmland is owned by joint tenants, tenants in common or partners, or is marital property, and one or more of the owners is not a member of the claimant's household, "property taxes accrued" is that part of the farmland's property taxes, reduced by the applicable tax credit, that reflects the ownership percentage of the claimant and the claimant's household. In this context, "property taxes accrued" may not exceed \$10,000.

Beginning farmer and farm asset owner tax credit

In determining beginning farmer and farm asset owner tax credits, if the principal dwelling is owned by multiple parties as tenants in common, "property taxes" is that part of the taxes that reflects the claimant's ownership percentage.

Veterans' and surviving spouses' property tax credits (§ 71.07(6e))

In the context of the state's veterans' and surviving spouses' property tax credit, if the principal dwelling is owned by multiple parties as joint tenants or tenants in common or as marital property, "property taxes" is that part of the taxes that reflects the claimant's ownership percentage, except that this limitation does not apply to spouses who file a joint return.

School property tax credits (§ 71.07(9))

When determining school property tax credits, if the principal dwelling is owned by multiple parties as joint tenants or tenants in common or as marital property, "property taxes" is that part of the taxes paid that reflects the claimant's ownership percentage.

Spousal rights

A TIC that is held exclusively between spouses when a "statutory terminable *marital* property classification agreement" becomes effective, or while an agreement is in effect, is marital property. If, while a "statutory terminable *individual* property classification agreement" is in effect, spouses acquire property as tenants in common exclusively between themselves, the spouses' ownership

interests are classified as the owners' individual property. However, in both cases, to the "extent the incidents of the tenancy in common . . . conflict with or differ from the incidents of marital property, the incidents of the tenancy in common . . . control."

Unless otherwise provided, property is marital property

- if a document expresses an intent to establish a TIC exclusively between spouses after the determination date; or
- if a TIC exclusively between spouses is by a third party after the determination date.

Statutory section 842.03 amended 1975; § 863.17 enacted 1977; §§ 700.23 and 766.60 amended 1991; §§ 815.40, 843.12, and 844.06 amended 1993; § 847.05 amended 2001; §§ 766.588, 766.589, and 779.01 amended 2005; § 815.20 amended 2009; § 62.075 amended 2015; §§ 66.0217, 71.07, 71.28, 71.47, 71.52, 71.58 amended 2017. Regulation amended 2006.

[Wis. Stat. §§ 62.075; 66.0217; 71.07, .28, .47, .52, .58; 700.23; 766.588, .589, .60; 779.01; 815.20, .40; 842.03; 843.12; 844.06; 847.05; 863.17 \(2018\); Wis. Admin. Code Tax § 14.04\(8\)\(a\) \(2018\)](#)

Wisconsin, TIC Sale or Transfer

GENERAL SALE AND TRANSFER PROVISIONS

If multiple persons are named as covendors in a contract to transfer a property interest they own as tenants in common, the purchase price is payable to them according to their interests, unless the contract states otherwise.

OTHER RELEVANT PROVISIONS

A fractional interest in real property that is owned by an individual as a tenant in common may be transferred without probate to a designated TOD ("transfer on death") beneficiary on the death of the sole owner or the last to die of the multiple owners.

Section 700.21 enacted 1971; § 705.15 amended 2018.

[Wis. Stat. §§ 700.21\(1\), 705.15\(1m\) \(2018\)](#)

Wyoming

Wyoming, Nonsecuritized TICs

CREATING A TIC

No specifically relevant provisions were located.

OTHER RELEVANT PROVISIONS

Partnership formation

A TIC, by itself, does not establish a partnership, even if the co-owners share profits made by using the property.

Nonprofit association formation

A TIC, by itself, does not create a nonprofit association, even if the co-owners share the property's use for a nonprofit purpose.

Statutory section 17-22-102 amended 1997; § 17-21-202 enacted 1993.

Wyo. Stat. §§ 17-21-202(c)(i); -22-102 (LexisNexis 2018)

Wyoming, State TIC Securities

RELEVANT STATE SECURITIES LAWS

No specifically relevant provisions were located.

However, effective July 1, 2017, an "issuer" is a person that issues or proposes to issue a security, and issuers are subject to numerous provisions of the Wyoming Uniform Securities Act. The issuer of a fractional undivided interest in an oil, gas, or other mineral lease, or in payments arising out of mineral production, is the owner of "an interest in the lease or in payments out of production under a lease, right, or royalty, whether whole or fractional, that creates fractional interests for the purpose of sale."

NO REGISTRATION IN BENEFICIARY FORM

Individuals whose security registration shows multiple ownership as tenants in common may not obtain registration in beneficiary form. Multiple owners of a security registered in beneficiary form hold as joint tenants, tenants by the entirety, or owners of community property held in survivorship form, not as tenants in common.

Statutory section 2-16-103 enacted 1993; § 17-4-102 amended 2018.

Wyo. Stat. §§ 2-16-103, 17-4-102 (LexisNexis 2018)

Wyoming, TIC Ownership

TIC OWNERSHIP LIMITATIONS

Construction lien liability

An agency relationship among tenants in common is presumed in determining construction lien liability.

TIC OWNERSHIP RIGHTS

Action for partition

Tenants in common may be compelled to make a partition of the property. A person entitled to partition an estate may file a petition that

- sets forth the title's nature;
- describes the "lands, tenements or hereditaments" to be partitioned; and
- names each tenant in common or other interested persons as defendants.

If the commissioners believe that the estate cannot be divided without "manifest injury to its value," they must so inform the court. If the court approves the return and one or more of the parties chooses to take the estate at the appraised value, it must be "adjudged to him upon his paying to the other parties their proportion of the appraised value according to their respective rights."

Action against a cotenant for profits

One tenant in common may recover from another his share of rents and profits from the estate.

Action to recover rights

In an action to recover rights by a tenant in common against a cotenant, the plaintiff must state that the defendant

- denied the plaintiff's right; or
- did an act amounting to a denial.

OTHER INCIDENTS OF OWNERSHIP

Exemptions from real estate subdivision requirements

Unless a sale method is adopted to evade the real estate subdivision requirements, the subdivision provisions do not apply to any subdivision of land that is created by acquiring a land interest in the name of a husband and wife or other persons in joint tenancy or as tenants in common, and the interest is deemed for those purposes to be only one interest.

Statutory sections 1-32-101, 1-32-119, 1-32-202, and 1-32-204 amended 1977; § 29-1-201 amended 2012; § 1-32-103 amended 2013; § 18-5-303 amended 2015.

Wyo. Stat. §§ 1-32-101, -103, -119, -202, -204; 18-5-303(a)(x); 29-1-201(b)(ii) (LexisNexis 2018)

[Wyoming, TIC Sale or Transfer](#)

GENERAL SALE AND TRANSFER PROVISIONS

No relevant provisions were located.

OTHER RELEVANT PROVISIONS

Nontestamentary Transfer of Real Property on Death Act

A transfer on death deed may designate multiple grantees who take title as joint tenants with right of survivorship, tenants in common, or any other valid tenancy.

Statutory section amended 2014.

Wyo. Stat. § 2-18-103 (LexisNexis 2018)