AIPRA Basics:
Joint Tenancy Implied
Ownership of Indian Land

• Undivided interest in Indian land
  – Interest is in the whole (not a specific part of the property)
• Tenants in Common
• Joint Tenants with Right of Survivorship
Tenants in Common

• Definition
  – An undivided ownership in real estate by two or more persons
  – Ownership interest is distinct and separate from all other owners’ interests
    • May be sold or inherited
  – Interests need not be equal
  – Most well-known form of Indian land ownership
Joint Tenancy with Right of Survivorship

• Definition
  – An undivided ownership in real estate by two or more persons
    • Interests must be equal
    • Ownership is granted by the same conveyance (example: a single probate)
    • Ownership begins at the same time
Joint Tenancy with Right of Survivorship

• Ownership interest is tied to other owners’ interests
  – Upon the death of a joint tenant, the interest passes to and consolidates with the other joint tenants (example: 1/4 becomes 1/3, and so on)
    • Will not be inherited by the owner’s heirs
  – Can be thought of as “Last Indian Standing”
  – Furthers Federal Indian policy to reduce fractional ownership
Joint Tenancy under AIPRA

• Statute: Ch 24 ILCA. §2206
  (c) Joint tenancy; right of survivorship
    (1) Presumption of joint tenancy
    If a testator devises trust or restricted interests in the same parcel of land to more than 1 person, *in the absence of clear and express language in the devise* stating that the interest is to pass to the devisees as tenants in common, the devise shall be presumed to create a joint tenancy with the right of survivorship in the interests involved. *(emphasis added)*
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