



Indian Land Tenure
FOUNDATION.

***AIPRA Basics:
Joint Tenancy Implied***



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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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