



DEATH, DIVORCE, AND DISSOLUTION

Dealing with Vesting Defects

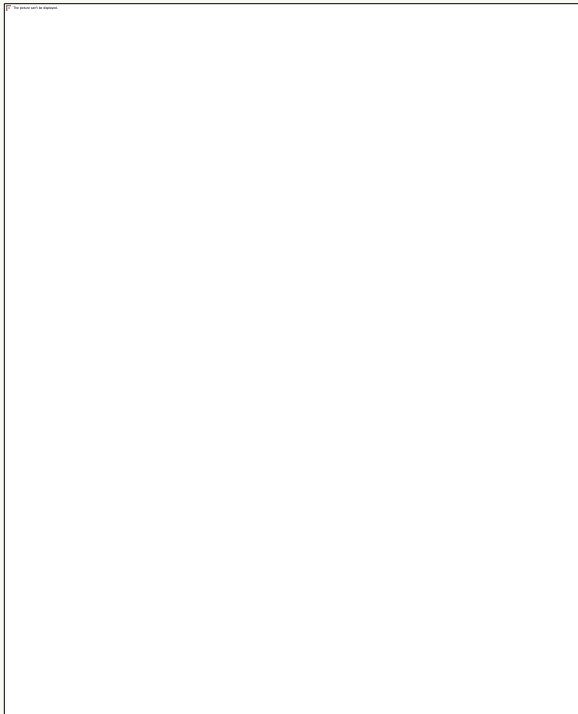
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VESTING



What is “vesting” anyway?

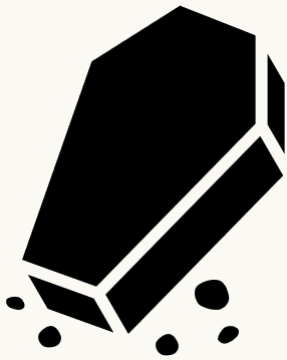
- “Vesting” or “title vesting” refers to the current record ownership of real property
- “Vesting deed” is the instrument that transferred title to the current property owner

Why does it matter?

- Vested owner is the only party that can legally convey the real estate*

**Absent a court order*

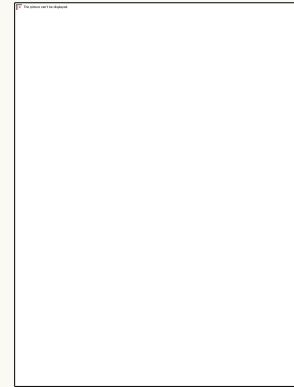
COMMON DEFECTS



DEATH



DIVORCE



DISSOLUTION

DEATH

Non-Probate Transfers

- Joint Tenancy OR Community Property with a right of survivorship (I.C. T. 15, Ch. 6)
- Community Property without a right of survivorship is *presumption only*

Probate

- Must use formal or informal probate proceedings to transfer real property (cannot use Small Estate Affidavit)
- Must be commenced within 3 years of death I.C. § 15-3-108
- Letters testamentary provide proof of authority to act on behalf of the estate

Other Options

- Affidavit of surviving spouse
- Affidavit of heirs
- Quitclaim deed/Disclaimer
- Quiet title

DIVORCE

1. Look at vesting deed to determine how property was owned.
2. If property is titled in both spouses, both spouses need to sign deed out.
3. Look at divorce decree (or other court order) to confirm authority or any changes.
4. Cross your fingers.

DISSOLUTION

Issues with Entities:

- Administrative dissolution (10 years)
- Voluntary dissolution
- Exiting members, partners, or shareholders
- Incorrect or nonexistent entities
- Mergers, acquisitions, name changes, etc.



QUESTIONS?

THANK YOU!