

About HEYL ROYSTER

Since our affiliation with Advocus National Title Insurance Company (Advocus), formerly Attorneys' Title Guaranty Fund, in 1999, Heyl Royster's title insurance practice has continued to grow, and we are recognized as one of Advocus' Top Members. We are staffed to provide all document preparation, closing services and legal representation necessary for your real estate transactions. Our title insurance rates are competitive with other local providers, however our personal service is what separates us from the others.

Established in 1910, Heyl, Royster, Voelker & Allen, P.C. is the largest law firm in Illinois that is based outside of Chicago. With offices in Peoria, Springfield, Champaign, Rockford, Edwardsville, Chicago, and St. Louis, Missouri, we have a broad area of expertise and experience serving clients. Some areas of specialization include Real Estate, Business Law, Corporate and Estate Planning, Elder Law, Commercial Litigation, Business Transactions, Healthcare, Employment Law, and Defense of Civil Litigation.

We offer real estate closing services at our North Peoria offices located on Willow Knolls Drive and Pioneer Parkway. Both locations offer free parking and a pleasant, professional closing atmosphere. We look forward to assisting you with your real estate needs and invite you to contact us should you need assistance in other legal matters.

HOW TO TAKE TITLE TO YOUR HOME?

Tenants By The Entirety

This type of ownership has been available in Illinois since 1990. A married couple or partners in a civil union may take title by tenancy by the entirety if all of the following conditions are satisfied:

- The property is maintained or intended to be maintained as a homestead or principal residence by both spouses or partners in a civil union.
- The deed or instrument of conveyance expressly declares that the devise is to the grantees as tenants by the entirety.
- The grantees are in fact married or partners in a civil union (not available for non-married grantees).

One of the unique advantages of tenancy by the entirety over other forms of ownership is the **ability to shield property from enforcement of future judgments and liens against only one of the owners**. Generally, property held as tenants by the entirety is not subject to enforcement of a judgment or lien entered against only one of the spouses or partners, if all of the following are true:

- The judgment or lien was entered after October 1, 1990
- The judgment or lien did not constitute a lien on the interest of the debtor before it was transferred to the debtor and spouse or partner as tenants by the entirety
- The property was not transferred into tenancy by the entirety specifically to avoid the attachment of the judgment or lien, or to avoid the payment of existing debts beyond the debtor's ability to pay those debts.

It is important to note that if the tenancy terminates or is severed, the judgment or lien becomes enforceable. In the event of the death of one of the spouses or partners, title automatically passes to the surviving spouse or partner. Any conveyance of the real estate must be executed by both spouses or partners.

Joint Tenants

Joint tenancy conveys an undivided interest in property taken by two or more joint tenants. Each joint tenant has an **equal and undivided interest** in the property and has an equal right to possession. The interests must all be created at the same time and occurring under the same conveyance. Upon the death of a joint tenant, the interest passes to the surviving joint tenants, rather than to the heirs of the deceased. If a joint tenancy is not indicated, there is a presumption of tenancy in common. In the event of a conveyance by one of the joint tenants to himself or a third party, the joint tenancy is severed.

Tenants in Common

Tenants in common have a separate and distinct undivided interest in the real estate. Each tenant in common owns a distinct share and is entitled to possession of the whole estate unless otherwise agreed. Tenants in common can acquire their interests by different conveyances, at different times and in unequal shares. Upon the death of a tenant in common, his or her share in the real estate passes to his or her heirs or devisees, subject to estate claims, taxes, etc. A tenant in common may execute a mortgage upon his or her undivided interest without affecting the shares of the co-tenants. Similarly, a judgment or other lien against a co-tenant creates no lien on the shares of the other co-tenant. This type of ownership is commonly used by unmarried persons, siblings or business partners.

Trusts

There are a number of different ways a homeowner can hold title to their property in a trust depending on the particular needs and estate planning purpose. You should consult with an estate planning attorney to determine the best fit for your needs.

The above is for informational purposes only. Please consult your tax or legal professional with questions about any specific transaction.

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Heyl Royster has seven offices located in Illinois (Peoria, Champaign, Chicago, Edwardsville, Rockford, and Springfield), and Missouri (St. Louis). With more than 100 attorneys, the firm provides consistent, high quality representation for clients ranging from individuals to businesses, professionals, and major companies and institutions.



**Heyl Royster
also offers legal services in:**

- Elder Law & Estate Planning
- Business & Corporate Law
- Healthcare
- Employment
- Governmental Entities
- Commercial & Civil Litigation
- Appellate

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Please contact Heyl Royster with any questions concerning your real estate transaction.

www.heyloyster.com

Buyer's Information



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**Real Estate and
Title Insurance Services**