

A row of five stylized human figures made of paper cutouts, holding hands in a line. They are set against a blue background with a subtle gradient. The figures are dark blue or black, and their shadows are cast onto the surface below them.

Holding Title:

DOMESTIC

Partnership Primer

Since January 1, 2005, California law has provided that unmarried same-sex couples and unmarried, disability or old age income-eligible opposite-sex couples can register as domestic partners with the California Secretary of State. California also recognizes legal unions formed under the laws of other states as valid California domestic partnerships. Domestic partners are accorded the same rights as married persons under California law. Some of these rights impact ownership and transfer of real property and may be relevant in your transaction.

COMMUNITY PROPERTY

Any property owned by a domestic partner during their domestic partnership is presumed to be community property. Consequently, a domestic partner who desires to hold property as his or her sole and separate property will need to have the other domestic partner disclaim his or her interest by Quitclaim Deed or Interspousal/Interpartner Deed. Community property also may be subject to lien for the debt of either domestic partner.

PROBATE ISSUES

A surviving domestic partner has the right to transfer community property upon death of one domestic partner pursuant to Probate Code 13540.

DIVORCE

Domestic partnerships can be terminated by filing a Notice of Termination of Domestic Partnership with the Secretary of State (if certain requirements are met) or by filing a Petition for Dissolution of Domestic Partnership. If the domestic partners also are married under California law, the marriage must be terminated through the courts with a Petition for Dissolution of Marriage. A Petition for Dissolution of Domestic Partnership alone will terminate the domestic partnership, but will not terminate the marriage.

The abbreviated procedure for filing a Notice of Termination is not available if the domestic partners own real property. Consequently, it should not be relied upon in handling title matters. To insure title, evidence of the division of the community property will be required in the same manner as married individuals.

VESTING AND TRANSFER OF TITLE

Vesting can be done in any form used for married individuals and also may specify that the individuals are domestic partners. In most instances, transfer of title requires signatures of both domestic partners even if one is not named on the Grant Deed (due to potential community property interests).

The information in this flyer presents various issues as they relate to the issuance of title insurance. It is not guaranteed to be complete or fully accurate for all purposes and does not constitute legal advice. You should consult an attorney for advice on any legal issues or questions.