

Non-Titled Spouse Joinder - Conveyances

| Updated as of 1/16/2015 | State Specific Information | Community Property | | | Dower Property | | | Homestead Property | | | Purchase Money Mortgages |
|----------------------------|--|---|------------------------|--------|----------------|--------------------|--------|---|------------------------|--------|---------------------------|
| | | Community Property | Non-Community Property | Waiver | Dower Property | Non-Dower Property | Waiver | Homestead Property | Non-Homestead Property | Waiver | Does spouse have to sign? |
| Alabama | Homestead - up to 160 acres, mobile home or similar dwelling can be homestead if it is the principal place of residence. § 6-10-2; No designation required; Homestead allowance is \$6,000; No mortgage, deed or other conveyance of the homestead by a married person shall be valid without the voluntary signature and assent of the husband or wife, which must be shown by his or her examination before a notary § 6-10-3 | N/A | N/A | N/A | N/A | N/A | N/A | Yes | No | No | No |
| Alaska | Community Property - common law state, but law in 1998 allows for property to be held by a community trust, which is only done with a community trust agreement, which may or may not be recorded; Property is only considered community property to the extent set out in the agreement; Only titled spouses have to sign. Homestead - Husband and wife must join in the conveyance or the mortgaging of a family homestead (homestead is defined as the principal residence of an individual and dependents) owned by either of them. (34.15.010); however, failure to join does not prevent the passing of title if: 1) Non-joining non-record owner spouse doesn't file a suit asserting an interest therein within one year from recording date of deed; or 2) Spouse whose interest is affected by the conveyance does not record notice of an interest within one year. | No | No | Yes | No | No | N/A | Yes | No | Yes | No |
| | | * Only spouse vested w/ title MUST execute | | | | | | | | | |
| Arizona | Community Property - All property acquired by either husband or wife during marriage; Separate property - all property owned before marriage, or acquired during marriage by gift, devise, or descent, as well as the increase from separate property, is the separate property of the spouse; Presumption is community property so require a disclaimer deed to create separate property; Since both have equal management and control, than both are required to sign for community property. Homestead - Any resident may hold a dwelling house, condo, mobile home, or a mobile home plus land where the claimant resides exempt; Homestead does not have to be designated unless they hold more than one property that could be claimed as homestead, and then they are required to file an exemption (ARS 33-1102). The family homestead shall not be conveyed or encumbered by a spouse without the consent of the other spouse. The consent shall be evidenced by each spouse joining in the conveyance by signing their name. (ARS 33-453) | No * | No | Yes | N/A | N/A | N/A | No * | No | Yes | No |
| | | * If titled spouse owns as separate & sole property | | | | | | * If titled spouse owns as separate & sole property | | | |
| Arkansas | Dower - Dower and curtesy rights exist in property purchased and mortgaged by deceased spouse during and prior to marriage, and are valid against all but the mortgagee and those claiming under the mortgagee. (28-11-303); These rights persist against creditors in all lands sold during lifetime of deceased spouse without consent of the surviving spouse in legal form. (28-11-301); Dower and curtesy are barred by 7 years adverse possession, or where spouse's conveyance is more than 7 years old. Homestead - means place of residence, which may be a mansion, a cabin, or a tent. (Flowers v. United States Fidelity & Guaranty Co., 89 Ark. 506, 117 S.W. 547 (1909)). No designation is required. No conveyance, mortgage, or other instrument affecting the homestead shall be valid, unless his or her spouse joins in executing and acknowledging the same, or conveys by separate document and acknowledges it. (18-12-403) | N/A | N/A | N/A | Yes | No | Yes | Yes | No | Yes | Yes |

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| California | Community Property - All property acquired by either husband or wife during marriage, except that acquired by gift, devise, or descent is the community property of the husband and wife; Separate property - All property owned before marriage, or acquired during marriage by gift, devise, or descent, as well as the increase from separate property; Title to community property is viewed as being held by the "community" similar to the manner in which title to partnership property is held; Presumption is that a conveyance to one spouse is that it is their separate property, but there is also a presumption that it should be community so require interspousal deed to create separate property; Conveyances of community property require the joinder of both husband and wife. Homestead - principal dwelling place, and it is not requisite that the dwelling be claimed in a recorded homestead declaration, but such declarations are recognized and can be recorded; There is an automatic homestead that does not need to be declared, and would be raised as an objection in a case involving taking an interest in the homestead; Most significant difference between California automatic homestead exemption and declared homestead exemption is that declared homestead entitles debtor to exemption upon voluntary sale of homestead property and proceeds remain exempt for six months; this allows debtor to reinvest proceeds in another residence; Amount ranges from \$100,000 for older and diabled claimants to \$50,000; Homestead of married person cannot be conveyed or encumbered unless operative instrument is executed and acknowledged by both husband and wife. | Yes | No | Yes | N/A | N/A | N/A | Yes | No | Yes | No |
| Colorado | Homestead - no need for designation as homestead automatic on house that is occupied by the owner or his family. C.R.S. 38-41-201; Exemption amount is \$60,000; Only able to claim one homestead, unless husband and wife are living separate, and then both can claim where they reside as their homestead; If the owner or spouse of the property has filed an instrument setting forth the property and that it is their homstead, than both spouses have to sign to convey or encumber such property. | N/A | N/A | N/A | N/A | N/A | N/A | Yes | Yes | Yes | No |
| Connecticut | | N/A | N/A | Yes | N/A | N/A | N/A | N/A | N/A | N/A | No |
| Delaware | There is no marital or homestead rights, but if the parties are in the middle of a divorce than non-titled spouse should join on all conveyances or encumbrances. | N/A | N/A | N/A | No | No | N/A | No * | No * | N/A | No |
| | | | | | Abolished in 1974 | | | * If H & W are in the middle of divorce, then both titled & non-titled spouse MUST sign, | | | |
| DC | | N/A | N/A | N/A | No | No | N/A | N/A | N/A | N/A | No |
| | | | | | Dower repealed 4/26/2001. | | | | | | |
| Florida | Homestead - property owned by one who resides thereon and in good faith makes the same his permanent residence, or the permanent residence of another or others legally or naturally dependent upon such person; Homestead may be selected or designated by claimant's written recorded statement containing a description of the real property claimed, declaring it to be a homestead. (F.S. 222.01). Where no written designation has been recorded as above, a claimant may assert homestead exemption by written notice, under oath, delivered to levying office anytime before sale. (F.S. 222.02). An owner and spouse may by mortgage, sale, or gift alienate or encumber the homestead, but both spouses must join. | N/A | N/A | N/A | N/A | N/A | N/A | Yes | No | No | Yes |
| Georgia | | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | No |
| Hawaii | | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | No |

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| <p>Idaho</p> | <p>Community Property - All property acquired by either husband or wife during marriage; Separate property - all property owned before marriage, or acquired during marriage by gift, devise, or descent, as well as the increase from separate property; Presumption is community property, but can do a quitclaim deed to spouse; Both are required to sign for community property. Homestead - means the dwelling-house or mobile home in which claimant resides, or intends to reside, and the land on which the same is situated and located; also, the proceeds of a voluntary sale thereof, and also the insurance thereon, if any, in the event of a loss. (55-1001). No designation is required, but can be recorded; A conveyance of homestead by a married person must be executed and acknowledged by both husband and wife, except that a husband or a wife or both jointly may make and execute powers of attorney for the conveyance or encumbrance of the homestead. (55-1007)</p> | <p>Yes</p> | <p>No</p> | <p>Yes</p> | <p>N/A</p> | <p>N/A</p> | <p>N/A</p> | <p>Yes *</p> | <p>No</p> | <p>No</p> | <p>Yes</p> |
| | | | | | | | | <p>* May use POA with titled spouse</p> | | | |
| <p>Illinois</p> | <p>Homestead - estate may be claimed by any individual in any occupied residence, whether he or she be a household or not and even though held under lease. (735 ILCS 5/12-901). No designation is required. A conveyance of a homestead must be executed and acknowledged by both spouses. (735 ILCS 5/12-904). No deed or other instrument releasing or waiving a homestead is valid unless it contains a recital stating such effect is intended. (765 ILCS 5/27)</p> | <p>N/A</p> | <p>N/A</p> | <p>N/A</p> | <p>N/A</p> | <p>N/A</p> | <p>N/A</p> | <p>Yes</p> | <p>No</p> | <p>Yes</p> | <p>No</p> |
| <p>Indiana</p> | | <p>N/A</p> | <p>N/A</p> | <p>N/A</p> | <p>N/A</p> | <p>N/A</p> | <p>N/A</p> | <p>N/A</p> | <p>N/A</p> | <p>N/A</p> | <p>No</p> |
| <p>Iowa</p> | <p>Homestead - Homestead is the house that is used as a home by the owner, and if there are two or more houses, the owner may select which is homestead; Amount is \$500 or less; The owner may designate a homestead and have it platted, but not doing so will not affect the homestead protection; Affidavit stating that the property is not homestead is allowed and we can rely on it; Conveyance or encumbrance of homestead without the joinder of non-titled spouse is void.</p> | <p>N/A</p> | <p>N/A</p> | <p>N/A</p> | <p>N/A</p> | <p>N/A</p> | <p>N/A</p> | <p>Yes</p> | <p>No</p> | <p>No</p> | <p>Yes</p> |
| <p>Kansas</p> | <p>Homestead - Residence, to include a mobile home, occupied as a residence by the owner or by the family of the owner, together with all improvements thereon is exempt from forced sale upon execution for most debts. (Const. Art. 15 Section 9, and K.S.A. 60-2301). Designate property to levying officer containing description of property claimed as a homestead. (K.S.A. 60-2302). Husband and wife are required to join in same instrument conveying or encumbering a homestead. (Const. Art. 15, Section 9) and a contract for sale of homestead is void if not executed by both spouses.</p> | <p>N/A</p> | <p>N/A</p> | <p>N/A</p> | <p>N/A</p> | <p>N/A</p> | <p>N/A</p> | <p>Yes</p> | <p>No</p> | <p>No</p> | <p>No</p> |
| <p>Kentucky</p> | <p>Homestead - The real or personal property used by debtor or by a dependent as a permanent residence is their homestead. No designation is required. No mortgage, release, or waiver of a homestead exemption is valid unless in writing, subscribed by husband and wife, acknowledged and recorded.</p> | <p>N/A</p> | <p>N/A</p> | <p>N/A</p> | <p>No *</p> | <p>No *</p> | <p>Yes</p> | <p>Yes</p> | <p>No</p> | <p>No</p> | <p>Yes</p> |
| | | | | | | <p>* One spouse may release other spouse's dower</p> | | | | | |
| <p>Louisiana</p> | <p>Community Property - All property acquired by either husband or wife during marriage; Separate property - all property owned before marriage, or acquired during marriage by gift, devise, or descent, as well as the increase from separate property; Each spouse owns a present undivided one half interest in the community property but neither spouse may convey or encumber their undivided interest without joinder of other spouse; Homestead - consists of a tract of land, or two or more tracts with a residence on one and a field, pasture, or garden on the other tract or tracts, with buildings and appurtenances, whether rural or urban, owned and occupied by a person. No selection or designation is required. Joinder of spouses is required for any conveyance or mortgage.</p> | <p>Yes*</p> | <p>No</p> | <p>Yes Must be recorded in Mtg records</p> | <p>N/A</p> | <p>N/A</p> | <p>N/A</p> | <p>No</p> | <p>No</p> | <p>No</p> | <p>No</p> |

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| | | * Customary for non-titled spouse to sign. If waived, doc must state marital status & its sole & separate | | | | | | | | | |
| Maine | | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | No |
| Maryland | | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | No |
| Massachusetts | Dower - has been abolished and replaced by tenancy by dower; Either spouse, within 6 months after the date of probate bond, file for an election in the probate court for 1/3 life estate in all lands owned by the deceased; Failure to make the election is waiver; Joinder is not required. Homestead - family home or residence. The deed or the conveyance by which the homestead is acquired may designate the property as a homestead; or, by a writing duly signed, sealed, acknowledged, and recorded the property may be so designated. New law allows for automatic homestead so there does not have to be a designation. A homestead cannot be conveyed during the lifetime of husband and wife without their joint conveyance, but may be waived. The new law states that the homestead is subordinate to a mortgage executed by all of the title holders, so it is not necessary to have the non-titled spouse sign on a mortgage but it is on a conveyance. | N/A | N/A | N/A | N/A | N/A | N/A | Yes | No | Yes | Yes |
| Michigan | Dower - a widow has a 1/3 life estate in all lands owned by her husband during the marriage; Subordinate to purchase money mortgages; Husband has to have an estate of inheritance in order for dower rights to attach; Require the joinder of non-titled spouse for conveyances and mortgages with dower rights. Homestead - Homestead allowance of \$15,000, and no designation is required; The spouse has to join on a mortgage, even purchase money mortgage, but does not have to sign the note, and so is not personally liable for the debt; There is no way to waive homestead rights. | N/A | N/A | N/A | Yes | Yes | No | Yes | Yes | No | No |
| Minnesota | Homestead - is the house owned and occupied by the debtor as his dwelling place, together with the land upon which it is situated, (M.S.A. 510.01); No designation necessary; If owner is married no conveyance of the homestead, except for purchase money mortgage, conveyance between spouses, or a severance of joint tenancy is valid unless executed by both spouses. (M.S.A. 507.02) | N/A | N/A | N/A | N/A | N/A | N/A | Yes | No | No | Yes |
| Mississippi | Homestead - Every citizen of the state; male or female, who is a householder having a family, is entitled to hold exempt from execution or attachment the land and buildings owned and occupied as residence. (85-3-21); Designation no longer required after 1979; A conveyance, mortgage, deed of trust, or other encumbrance upon a homestead is void unless executed by both husband and wife. (89-1-29) A homestead exemption may not be waived or released by an instrument which would not be sufficient as a conveyance of the property; All powers of attorney authorizing conveyance or mortgage shall designate an attorney in fact other than the spouse. | N/A | N/A | N/A | N/A | N/A | N/A | Yes | No | No | No |
| Missouri | Homestead - The homestead of every housekeeper or head of a family, consisting of dwelling house and appurtenances, and land used in connection therewith (Section 513.475, RSMo.); no designation required; Section 513.475 (2), RSMo., prohibits either spouse from selling, mortgaging, or alienating a homestead in any manner and any attempt to do so is null and void; | N/A | N/A | N/A | N/A | N/A | N/A | Yes | Yes | Yes | No |
| Montana | Homestead - A claimant may declare and record a homestead on dwelling house or mobile home, to include the land, actually occupied as a residence (MCA § 70-31-101); A valid declaration of homestead must be filed with the county in order to create homestead rights; Both husband and wife must joint in conveyance or encumbrance of property which is subject to the homestead declaration. | N/A | N/A | N/A | N/A | N/A | N/A | Yes | No | No if note of homestead filed | Yes |

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| North Dakota | Homestead - The "homestead" of every individual residing in the state shall consist of the dwelling, its appurtenances and improvements not exceeding \$100,000 in value over and above liens and encumbrances; Exceptions: Mechanic's liens, Mortgages executed by husband and wife, purchase money mortgages, taxes, debts over \$100,000; Affidavit that the property is not the homestead of the parties is allowed; Any person may execute, acknowledge, and record a prescribed statutory form of declaration of homestead; however, such recorded declaration is not essential to assertion of homestead exemption; Homestead cannot be conveyed or encumbered unless the instrument is executed and acknowledged by both husband and wife. | N/A | N/A | N/A | N/A | N/A | N/A | Yes | No | No | No |
| Ohio | Dower - a spouse, either husband or wife, acquires a dower right consisting of a life estate in one-third of the real property of which the other spouse was seized during marriage; A conveyance or encumbrance during lifetime of a vested spouse requires a joinder by the other, separate instruments for waiver are permitted. Homestead - Every person domiciled in Ohio is entitled to hold one item of real or of personal property used as a residence, of a value not to exceed \$20,200.00 as exempt from execution; No designation required; Require non-titled spouse to sign mortgages and deeds to clear their homestead interest. | N/A | N/A | N/A | Yes | Yes | No | Yes | No | No | Yes |
| Oklahoma | Homestead - The homestead of the family shall consist of the home of the family whether title to the same be lodged in or owned by the husband or wife; There is no provision for filing or recording a selection or designation of homestead; Joinder of spouses in same instrument is required for transfer or encumbrance of homestead, and joinder of spouses should always be required on all transactions, unless grantor is identified as a single person. Unless specifically restricted, an attorney in fact may execute a valid deed, mortgage, or contract affecting the homestead on behalf of a husband, a wife, or a husband and wife. (16 Okl. St. Ann. 4) | N/A | N/A | N/A | N/A | N/A | N/A | Yes | No | No | Yes |
| Oregon | Homestead - The actual abode occupied by owner or the owner's spouse, parent or child is exempt from execution; Owner designation of homestead is not required; The non-titled spouse does not have to join in conveyances or encumbrances of homestead property. | N/A | N/A | N/A | No |
| Pennsylvania | There is no marital or homestead rights, but if the parties are in the middle of a divorce than non-titled spouse should join on all conveyances or encumbrances. | N/A | N/A | N/A | N/A | N/A | N/A | No * | No * | Yes | No |
| | | | | | | | | * If in divorce, non-titled spouse MUST execute | | | |
| Rhode Island | Homestead - An owner or leasehold estate that occupies or intends to occupy the home as his principal residence; Up to \$500,000, except for the following, taxes, debt prior to homestead, purchase money debt, child support judgments, judgment for medical assistance, and for money owed to federally insured deposit; No designation required, but some municipalities use them for tax purposes; Homestead is subordinate to mortgages and the titled spouses interest, so non-titled spouse does not have to sign for homestead property. | N/A | N/A | N/A | N/A | N/A | N/A | No | No | N/A | No |
| South Carolina | Homestead - Every debtor residing in South Carolina is entitled to an exemption from attachment, not to exceed \$50,000; No designation required; The homestead right is subordinate to deeds or mortgages executed by the titled owner to the property, and so non-titled spouse does not have to join. | N/A | N/A | N/A | N/A | N/A | N/A | No | No | No | No |
| South Dakota | Homestead - The homestead of every family is exempt, the place they own and dwell; The owner or the husband or wife may select the homestead and cause it to be marked off, platted and recorded, but it is not required and if not so done; A conveyance or encumbrance, of the homestead requires both spouses to execute, either by joint instrument or by separate instruments. | N/A | N/A | N/A | N/A | N/A | N/A | Yes | No | No | Yes |

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| Tennessee | Homestead - (T.C.A. 26-2-301) An individual, regardless of whether he is head of a family, shall be entitled to a homestead exemption upon real property which is owned by the individual and used by him, his spouse, or a dependent, as a principal place of residence; No designation requirements; If a marital relationship exists, a homestead exemption shall not be alienated or waived without the joint consent of the spouses. | N/A | N/A | N/A | N/A | N/A | N/A | Yes | No | Yes | No |
| Texas | Community Property - All property acquired by either husband or wife during marriage; Separate property - all property owned before marriage, or acquired during marriage by gift, devise, or descent, as well as the increase from separate property; Only state that you cannot reclassify separate property into community property by an agreement; Presumption is community property; Both are required to sign for community property that is also homestead; If the community property is non-homestead and was acquired by one spouse alone without a recital as to community or separate property, than this community property is presumed under the sole control of that spouse and so only they would have to sign on a mortgage or conveyance. Homestead - A place of residence for the family...which the family cannot be deprived by creditors; No homestead declaration is required, but can be recorded to acknowledge the homestead; The owner of a homestead may not sell or abandon it without the consent or joinder of the other spouse. | Yes | No | N/A | N/A | N/A | N/A | Yes | No | No | No |
| Utah | Homestead - head of a family can claim an exemption for land, appurtenances, and improvements; Limited to \$20,000 for individual and \$40,000 for a household; A homestead declaration can be filed in the office of the county recorder that needs to include: Statement that no other homestead claimed, description of property; its estimated cash value, and the amount of exemption claimed; Once a designation of homestead is recorded than no conveyance or encumbrance is valid without the joinder of both spouses. | N/A | N/A | N/A | N/A | N/A | N/A | No | No | No | No |
| Vermont | Homestead - Dwelling house, outbuildings, and land used in connection therewith owned and used or kept by a natural person as a homestead; If value is more than the homestead exemption amount (\$125,000) than declaration is filed on the portion that is being claimed exempt; Joinder of husband and wife in conveyance or encumbrance (other than purchase money mortgage) is required; When spouses are separated and living separate, than both can claim homestead in separate property and do not have to join on the other's homestead. | N/A | N/A | Yes | N/A | N/A | N/A | Yes | No | No | No |
| Virginia | Elective Share - a surviving spouse may claim an elective share in all of the property of the deceased spouse, instead of taking through will or intestate succession; Must make election within 6 months of the admission of will to probate or qualification of administrator; Policy is to make sure that surviving spouse is not disenfranchised; It is important because the elective share can include the value of property that was conveyed to a non-bona fide purchaser and this conveyance can be set aside; Almost never an issue because almost all transfers involve bona fide purchasers, and in order to claim the transferred property the surviving spouse has to make the election within the time period death for a non-bona fide transferor, and that person still has to be in title (VERY RARE). Homestead - A householder may hold any of his or her real or personal property exempt from levy or garnishment upon making and recording a written declaration of homestead; Designation is required; The non-titled spouse never has to join on homestead conveyance. | N/A | N/A | N/A | No | No | Does not require waiver; assume BFP | N/A | N/A | N/A | No |
| | | | | | * Non titled spouse needs to sign if buyer is not BFP | | | | | | |

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| Washington | Community Property - All property acquired by either husband or wife during marriage; Separate property - all property owned before marriage, or acquired during marriage by gift, devise, or descent, as well as the increase from separate property; If property is acquired with no marital status than the presumption is that it is community property, and if it is taken by a married person as their separate property, for underwriting still presume community property unless there is a confirming conveyance by spouse; Both are required to sign for community property. Homestead - defined as real or personal property that the owner uses as a residence; No designation required; The homestead of a married person cannot be conveyed unless both spouses/domestic partners join in the conveyance, but either spouse or domestic partner or both jointly may give a power of attorney for conveyance of a homestead. | Yes | No | Yes | N/A | N/A | N/A | Yes | No | No | Yes |
| West Virginia | Homestead - Any husband, wife, parent or other head of household, or the infant children of deceased or insane parents, residing and owning a homestead in the state may assert a homestead exemption; No recorded designation; Both husband and wife need to join in a conveyance or encumbrance. | N/A | N/A | N/A | N/A | N/A | N/A | Yes | No | No | No |
| Wisconsin | Community Property - All property acquired by either husband or wife during marriage; Adopted marital property system 1986, and very unlike other community property states; Separate property - all property owned before marriage, or acquired during marriage by gift, devise, or descent, as well as the increase from separate property; Property of a married couple, even if only in the name of one of them, is presumed to be community property, no matter how title is held, unless there is proof by an agreement or proof that the property was brought into the marriage by one; If the community property is titled in only one spouse, than that spouse has sole control over the property, and so the non-titled spouse does NOT have to sign on mortgages and encumbrances. Homestead - the dwelling, including a condo, mobile or manufactured home, and the land surrounding it; May hold up to \$75,000 exempt, except for mortgages, laborer', mechanics', and purchase money liens and taxes; No designation required; Homestead property requires the joinder of both spouses in order to convey or encumber, or a waiver from the non-titled spouse. | Yes | No | Yes | N/A | N/A | N/A | Yes | No | Yes | No |
| Wyoming | Homestead - Every resident of the state is entitled to a homestead, which is only exempt while occupied as such by a person entitled thereto or his or her family; No designation required; Except where the property is being conveyed' directly from husband to wife, any conveyance or encumbrance of homestead must be signed and acknowledged by both owner and spouse and contain the following recital: "Hereby releasing and waiving all rights under and by virtue of the homestead exception laws of this state." | N/A | N/A | N/A | N/A | N/A | N/A | Yes | No | Yes | Yes |