

PROPERTY RIGHTS: ESTATES AND TENANCIES, CONDOMINIUMS, COOPERATIVES, AND TIME-SHARING

1 LEARNING OBJECTIVES

2 *When you have completed this unit, you will be able to accomplish the following.*

- 3 ■ Define real property based on the definition in Chapter 475, F.S., and explain the physical components of
- 4 real property.
- 5 ■ Distinguish between real and personal property, and explain the four tests courts use to determine if an
- 6 item is a fixture.
- 7 ■ Describe the bundle of legal rights associated with real property ownership.
- 8 ■ List the principal types of estates (tenancies), describe their characteristics, and describe the benefits
- 9 and protections associated with the Florida homestead law.
- 10 ■ Distinguish among cooperatives, condominiums, and time-shares, and describe the main documents
- 11 associated with condominiums.

12 KEY TERMS

bundle of legal rights
common elements
concurrent ownership
condominium
condominium documents
cooperative
declaration of
condominium
estate for years
estate in severalty
fee simple estate
fixture

freehold estate
homestead
joint tenancy
land
leasehold estate
life estate
littoral rights
nonfreehold estate
personal property
proprietary lease
prospectus
real estate

real property
remainderman
right of survivorship
riparian rights
separate property
tenancy at sufferance
tenancy at will
tenancy by the entirety
tenancy in common
time-share
trade fixture
undivided interest

1 INTRODUCTION

2 This unit begins with a description of the physical components of real property. It goes
3 on to discuss various types of estates and the rights that are included in each type of estate.
4 It describes multiple ownership interests, as well as special ownership interests, including
5 the constitutional homestead. The unit concludes with a thorough presentation of coop-
6 eratives, condominiums, and time-shares.

7 8.1 LAND, REAL ESTATE, AND REAL PROPERTY

8 **Land** refers to the *surface* of the earth and to everything attached to it by nature, such
9 as trees and lakes. Land also includes products of nature beneath the surface, such as oil
10 and limestone. Technically, land extends downward to the center of the earth and upward
11 into the air to infinity.

12 **Real estate** refers to the land and all *human-made improvements* permanently attached
13 to the land. Improvements are artificial (man-made) things attached to land, such as
14 homes, factories, fences, streets, sewers, and other additions.

15 **Real property** includes all real estate plus the *bundle of legal rights* inherent in the
16 ownership of real estate (the bundle of rights is explained in detail under “Basic Property
17 Rights” later in this unit). The terms *real property* and *real estate* are often used inter-
18 changeably (see the definition of real property that follows). However, some references
19 reserve the term *real property* to include the concept of a bundle of legal rights associated
20 with ownership. Real property, therefore, includes not only the real estate (land plus
21 improvements) but also the legal interests, rights, and privileges associated with the own-
22 ership of real estate.



DEFINITION OF REAL PROPERTY

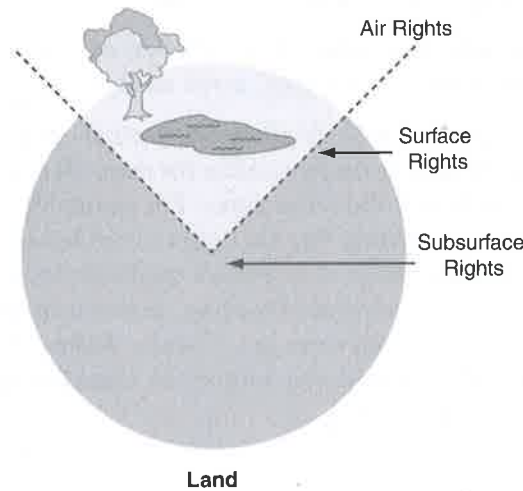
Real property or real estate means any interest or estate in land and any interest in business enterprises or business opportunities, including any assignment, leasehold, subleasehold, or mineral right; however, the term does not include any cemetery lot or right of burial in any cemetery, nor does the term include the renting of a mobile home lot or recreational vehicle lot in a mobile home park or travel park.

Reference: Section 475.01(1)(i), F.S.

23 Physical Components of Land

24 An owner's rights to use the physical components of surface, subsurface, and air are
25 called *surface rights*, *subsurface rights*, and *air rights* (see Figure 8.1).

FIGURE 8.1 ■ Physical Components of Land



Earth's surface—including trees and water, land and minerals—to the center of the earth and the airspace above.

1 **Surface Rights.** Surface rights include land and water rights. Two types of water rights
2 are as follows:

- 3 ■ **Riparian rights** are associated with land abutting a flowing waterway, such as the
4 banks of a river or stream. The property owner does not own the river or stream
5 but has a right to use the water, such as for fishing and boating. The right is held in
6 common with other riparian owners to make reasonable use of the waters that flow
7 past, provided the use does not alter the flow of water or contaminate the water.
- 8 ■ **Littoral rights** are associated with land that abuts water that is nonflowing,
9 including ponds and lakes. Littoral rights include ocean-front property and gulf-
10 front property. The littoral owner's rights are the use and enjoyment of the shore
11 and include ownership of the land adjacent to the water up to the average high-
12 water mark.

TO REMEMBER: LITTORAL VS. RIPARIAN RIGHTS

Littoral	Lake, pond, ocean (nonflowing)
Riparian	River, stream (flowing)



DEFINITIONS ASSOCIATED WITH WATER RIGHTS

<i>Accretion</i>	The process of land buildup from water-borne rock, sand, and soil
<i>Alluvion</i>	New deposits of land as a result of accretion; alluvion deposits commonly occurring at the mouth of large rivers (The landowner is entitled to all new soil deposits.)
<i>Erosion</i>	Gradual loss of land due to natural forces (A landowner may lose land through the natural process of erosion.)
<i>Reliction</i>	Gradual receding of water, uncovering additional land (The new land usually belongs to the landowner of the area that was previously covered by water.)

- 1 **Subsurface Rights.** These consist of an owner's rights to underground minerals, petro-
 2 leum, natural gas, and so forth, often called *mineral rights*.
- 3 **Air Rights.** Air rights involve that space above a tract, extending up to a height estab-
 4 lished by law (e.g., building rights, easements, aerial navigation).

5 Most real property transactions include all three physical components in the exchange
 6 of ownership rights. However, it is entirely possible for the seller to retain one or even two
 7 of the components if the buyer and the seller agree. For example, the MetLife Building in
 8 New York City was built by purchasing the air rights over Grand Central Terminal. The
 9 surface and subsurface components of that parcel continue to perform the same func-
 10 tion as before construction of the MetLife Building. Another example of the separation
 11 of components of real estate occurred near Jay, Florida. Before the oil supply there was
 12 exhausted, owners often sold or leased the subsurface component, including oil rights,
 13 while retaining the surface and air rights.

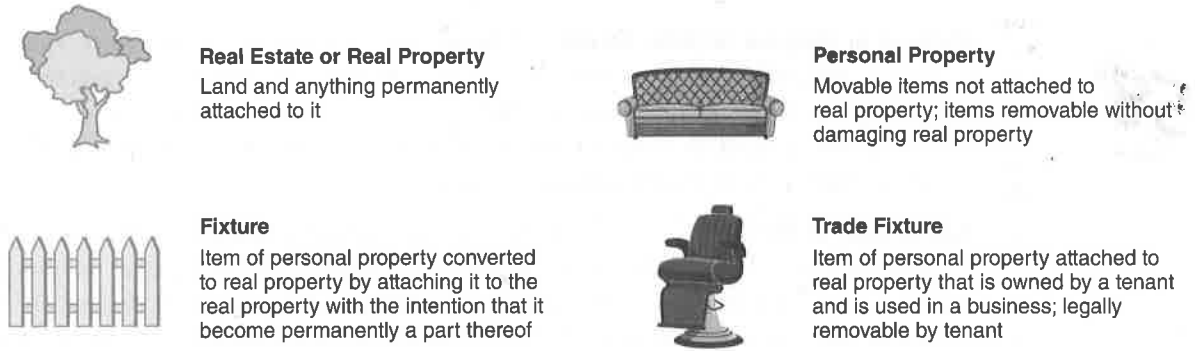
Practice Questions

1. List three physical components of land.
 1. _____
 2. _____
 3. _____
2. Reasonable use of waters that flow past an owner's property is called _____ rights.
3. Littoral rights are associated with land that abuts _____ water.
4. Land refers to the _____ of the earth and to everything attached to it by _____.
5. Real estate is defined as land plus all _____ or _____ improve-
 ments permanently attached to the land.

14 8.2 REAL PROPERTY VS. PERSONAL PROPERTY

15 The two basic types of property are real property and personal property (see Figure 8.2).
 16 Real property is basically land and improvements to the land. Property that is not real
 17 property is **personal property** (movable items or *chattel*). Personal property usually consists
 18 of items having a limited life that are easily movable from one place to another. Just as the
 19 term *realty* is used to denote real property, the term *personalty* is used to indicate personal
 20 property. It is important to distinguish between real property and personal property in a real
 21 estate transaction. All personal property included in the sale should be identified in the
 22 contract for sale, or the seller is entitled to remove the property.

FIGURE 8.2 ■ Real vs. Personal Property



1 Real property can become personal property by the *act of severance* (sever is to cut).
 2 For example, timber is real property, but when cut into logs, it becomes personal prop-
 3 erty by the act of severance. Vice versa, personal property can become real property by
 4 *attachment*.

5 Fixtures

6 A **fixture** is an item that was originally personal property that has been permanently
 7 attached to real estate in such a way that it is now legally part of the real property. A bathtub,
 8 for example, was personal property in its container in a warehouse, but once permanently
 9 attached in a home, it became real property. Some items, such as custom window treatments,
 10 ceiling fans, and chandeliers, are more difficult to classify. In those cases where contracting
 11 parties have not had the foresight to include such items in a real estate sale contract, the
 12 courts generally use the following set of legal tests to decide whether an item is a fixture.

13 **Intent of the Parties.** As in most points of law, intent of the party placing an article on or
 14 in real property is of primary importance. Statements made by an owner to witnesses may
 15 indicate the intent to make an item a fixture. For example, including a washer and dryer
 16 in a sale contract as part of the real property would remove any doubt about the owner's
 17 intention. If a dispute arises between a buyer and a seller or an owner and a tenant, the
 18 courts may be required to determine the original intent of the parties.

TO REMEMBER: LEGAL TEST FOR FIXTURES

I	Intent of the parties
R	Relationship or agreement of the parties
M	Method or degree of attachment
A	Adaptation of the item

19 **Relationship or Agreement of the Parties.** In this test, the courts seek to determine the
 20 exact nature of the relationship of the parties. Is it buyer and seller or landlord and ten-
 21 ant? Ordinarily, residential tenants are required to leave any item they have attached to
 22 the landlord's real property. However, if a building is leased as a retail store and the tenant
 23 has attached display racks to the walls, the courts would generally rule that the display
 24 racks are trade fixtures that may be removed by the tenant. A **trade fixture** is an item
 25 installed by a commercial tenant and used in the tenant's trade or business. Trade fixtures
 26 are legally considered personal property that are removable by the tenant, and the tenant

58

1 would typically be responsible for necessary repairs associated with removal. For example,
2 hydraulic car lifts installed by an auto repair shop are trade fixtures (see Figure 8.3).

3 **Method or Degree of Attachment.** The manner in which an article is attached to real
4 property generally indicates whether it is a fixture or personal property. Normally, if
5 removing the item would result in damage to real property, the article is classified as a
6 fixture. A set of built-in storage cabinets in the utility room would usually be considered a
7 fixture if removing it would damage the wall.

8 **Adaptation of the Item.** This test seeks to determine whether an item was designed for,
9 or necessary to, the normal use of a specific property. If the item is adapted or custom
10 built to fit the property, it will likely be considered a fixture even though it is movable.
11 For example, hurricane shutters are considered fixtures because they are custom made to
12 fit specific windows in a structure even though they are not on the windows at all times.
13 The shutters are placed on the windows when a storm is approaching and removed when
14 the danger has passed. Another example of a fixture is draperies that have been custom
15 made using the same decorative pattern as the wallpaper.

16 Legal tests should not be necessary if all personal property to be sold with the real
17 estate is listed in the sale contract. To avoid conflicts and misunderstandings between
18 buyers and sellers, listing and sale contracts should clearly specify which items are consid-
19 ered part of the real property in a transaction and list any personal property that is to be
20 included in the sale.

FIGURE 8.3 ■ Comparison of Fixtures and Trade Fixtures

	Fixture	Trade Fixture
Type of property	Real property	Personal property
Nature of property	Permanent	Removable
Use of property	Residential sale	Commercial lease
Sale contract	Included in sale	Not included in sale

Practice Questions

6. List the two basic types of property.

1. _____
2. _____

7. List the four legal tests that courts use to determine whether an item is a fixture.

1. _____
2. _____
3. _____
4. _____

8. An item that was personal property but has been permanently attached to real estate is called a _____.

9. Movable items that are not attached to real property are called _____.

10. Personal property, also called _____ or _____, consists of items having a _____ life.

11. _____ are articles of _____ property that are attached by a tenant and are a necessary part of the tenant's _____ or _____.

8.3 BASIC PROPERTY RIGHTS

Real property ownership rights are called a **bundle of legal rights**. The bundle of rights includes the following rights:

- *Disposition*. The right to sell, mortgage, dedicate, give away, or otherwise dispose of all or a portion of the property.
- *Enjoyment*. The right to enjoy and use the property without interference (the legal term is *quiet enjoyment*).
- *Exclusion*. The right to keep others from trespassing by entering or using the property without permission.
- *Possession*. The right to occupy the property in privacy. An owner acquires the right of possession of a property on the day the owner has legal title even though the owner may not have set foot on the land itself.
- *Control*. The right to uninterrupted use and control of the property consistent with local laws (for example, zoning).

TO REMEMBER: BUNDLE OF LEGAL RIGHTS

D	Disposition
E	Enjoyment
E	Exclusion
P	Possession
C	Control

Practice Questions

12. List the five real property ownership rights that are called a bundle of legal rights.

1. _____
2. _____
3. _____
4. _____
5. _____

8.4 ESTATES AND TENANCIES

An estate refers to the degree, quantity, nature, and extent of interest (ownership rights) a person can have in real property. The terms *estate* and *tenancy* are to be used interchangeably. Estates are divided into the following two general groups:

- 1 1. Freehold estates, which are for an indefinite length (of unknown duration) (see
2 Figure 8.4)
- 3 2. Leasehold estates (also called *nonfreehold estates*), which are for a fixed term
4 (known duration) (see Figure 8.5)

FIGURE 8.4 ■ Freehold Estates

Freehold estates are estates of ownership.

- *Fee simple* (absolute) is the most comprehensive estate and it is inheritable.
 - *Life estate* is measured by a natural life span ("for the life of").
 - *Estate in reversion* occurs when property returns to the grantor.
 - *Remainder estate* occurs when property goes to a third party.
-

5 Freehold Estates

6 A **freehold estate** is an ownership interest for an indefinite period. That interest can
7 be inherited (fee simple estate) or can be measured by the lifetime of an individual (life
8 estate).

9 **Fee Simple Estate.** A **fee simple estate** is the largest bundle of legal rights. Fee, fee
10 simple, and fee simple absolute are all used to describe the estate. All three terms identify
11 an ownership interest with complete power to use, to dispose of, and to allow the property
12 to descend to heirs. It is the highest type of real property interest recognized by law. Most
13 title to property is held in fee simple.

14 **Life Estate.** Life estates are another type of freehold estate that can be created by the
15 person who holds the fee simple title to real property. An estate in real property that is
16 limited in duration to the life of its owner or the life of some other designated person is
17 a **life estate**. During the time an owner enjoys a life estate, the owner must maintain the
18 property and not permit *waste* (anything that reduces the value of property) to occur. The
19 life estate owner also must pay the taxes and property insurance and keep current any
20 mortgage(s) or lien(s) to preserve the property.

21 Because these life estates are created by agreement of the parties, they are *conventional*
22 *life estates*. A conventional life estate can be created by a grantor who conveys a life estate
23 to another individual.

24 **EXAMPLE 1:** Lucille has a fee simple estate in a home. She wants to provide for
25 her brother, Andrew. Lucille executes a deed that transfers title to the home to Andrew
26 for his lifetime. Lucille is the grantor who transfers a life estate to Andrew. The duration
27 of the life estate is measured by Andrew's lifetime. The deed provides that upon Andrew's
28 death, title will revert to Lucille (the original grantor).

29 A conventional life estate can also be formed by a grantor who reserves a life estate for
30 the grantor's own use and transfers the remainder interest to another person (the grantee).

31 **EXAMPLE 2:** Lucille has a fee simple estate in a home. She wants to ensure that
32 her brother Andrew will be able to continue to live in the home after her death. Lucille
33 executes a deed that transfers title to the home upon her death to Andrew. Lucille is the
34 grantor who reserves a life estate in the home for her lifetime and transfers the remain-
35 der interest to Andrew. The duration of the life estate is measured by Lucille's lifetime.

1 When a life estate is formed, two distinct ownership interests emerge from the origi-
 2 nal fee simple estate: the life estate and a remainder interest. Because these two parts are
 3 ownership interests, owners of either part can sell, mortgage, or gift their interest. The
 4 duration of a life estate is determined by the lifetime of a designated individual, so the
 5 deed creating the life estate must provide for transfer of title upon the designated person's
 6 death. At the end of the life estate, title reverts to the original grantor (estate in rever-
 7 sion) or conveys to a third party (remainder estate).

8 **Estate in reversion.** If the title will return to the original grantor (previous owner), an
 9 estate in reversion (reversion estate) is created. In Example 1, Lucille conveyed a life
 10 estate to Andrew. Because title to the property reverts to Lucille (the original grantor)
 11 upon Andrew's death, Lucille's interest in the home is an estate in reversion.

12 **Remainder estate.** If the title will be conveyed to a third party, called a **remainderman**,
 13 the remainderman owns a *remainder estate* while the life estate exists. The deed that estab-
 14 lished the life estate also designates the remainderman. When the life estate ends, the
 15 remainderman receives a fee simple estate. If there is only one remainderman, the grantee
 16 receives a fee simple estate in severalty.

17 In Example 2, Andrew is the remainderman. Andrew holds a remainder estate in the
 18 home while the life estate exists. When Lucille dies, Andrew receives fee simple estate in
 19 severalty. If there is more than one remainderman, the remaindermen receive a concu-
 20 rrent ownership. (Concurrent ownership is explained later in this unit.)

21 Life estates can also be created by law. These life estates are called legal life estates.
 22 For example, in Florida, if a homesteaded property is titled in one spouse's name only, by
 23 operation of law, the surviving spouse receives a life estate to the homesteaded property
 24 and the children receive a remainder estate.

25 **Homestead.** Homeowners (including single persons) in Florida may **homestead** their
 26 permanent (principal) residence. The Florida Constitution grants certain protections and
 27 benefits to the homestead:

- 28 ■ **Protection of the family.** If a married person dies and the family homestead was
 29 titled in that deceased person's name only (in severalty), by operation of law
 30 (even if a will states otherwise), the surviving spouse receives a legal life estate
 31 and the children (lineal descendants) receive a remainder estate. If there are
 32 no children, the surviving spouse receives a fee simple estate in the homestead.
 33 Signatures of both spouses are required on all contracts, mortgages, and deeds on
 34 homestead property, even if the homestead is titled in one spouse's name only.
 35 The purpose of the homestead law, therefore, is to protect the family and prevent
 36 the family from being displaced from the homestead.
- 37 ■ **Protection of the homestead.** Homestead property is protected from forced sale to
 38 satisfy judgment liens for debts owing to personal loans, credit card debt, and
 39 so forth. Homestead protection does not prevent foreclosure for nonpayment of
 40 property taxes, special assessments, mortgages, homeowners association fees, con-
 41 dominium association fees, vendors' liens, or construction liens secured with the
 42 homesteaded property.
- 43 ■ **Tax exemption.** Florida statute allows a tax exemption from assessed property
 44 value. The current homestead tax exemption is up to \$50,000 for qualifying
 45 homesteads and is deducted from the assessed value when calculating taxable
 46 value (see "Homestead Tax Exemption," Unit 18).

196, F.S.
 222, F.S.
 Article X,
 Sec. 4, FL
 Constitution

30

- 1 ■ *Size of homestead.* The size of homestead property is restricted to 160 acres of
- 2 contiguous land and improvements outside a municipality (city) or up to ½ acre
- 3 of contiguous land and improvements if the property is located within the city.
- 4 ■ *Personal property.* Homestead protections include \$1,000 of value of personal
- 5 property.

FIGURE 8.5 ■ Nonfreehold or Leasehold Estates

Nonfreehold estates (leasehold) are estates of possession.

- *Estate for years* is a written lease agreement with a specific starting and ending date.
 - *Tenancy at will* is either an oral agreement or one that has no specific ending date.
 - *Tenancy at sufferance* occurs when the lease period has ended and the tenant is a holdover.
-

6 Nonfreehold or Leasehold Estates

7 **Nonfreehold estates** have a known duration and do not involve an ownership interest.
 8 *Nonfreehold or less-than-freehold* estates grant the right of quiet enjoyment (the right to use
 9 and possess but not own) real property. Nonfreehold estates are also called leasehold estates.

10 A **leasehold estate** (tenancy) is an interest in real property that a tenant possesses.
 11 Leasehold estates are measured in calendar time. Under a lease, the tenant possesses a
 12 leasehold estate and the landlord (property owner) possesses a reversion interest. At the
 13 end of the leasehold estate, the right of quiet enjoyment (use and possession) of the prop-
 14 erty reverts to the property owner. There are different types of leasehold estates: estate for
 15 years, tenancy at will, and tenancy at sufferance (see Figure 8.5).

16 **Estate for Years.** An **estate for years** (or tenancy for years) is a tenancy with a specific
 17 starting and ending date. It exists for a designated period, which may be any length of time
 18 from less than a year to a period of many years (such as a 99-year lease). An estate for years
 19 is a leasehold estate created by a written lease agreement. An estate for years establishes
 20 an interest in real property for the tenant (right of quiet enjoyment and exclusion) but
 21 does not convey actual title (or ownership) or the right of disposition (see “Basic Property
 22 Rights,” in this unit).

83.46(2)(3),
F.S.,

83.56(4),
F.S.

83.57, F.S.

23 **Tenancy at Will.** A **tenancy at will** is a lease agreement that has no provision for the
 24 duration of tenancy. The payment of rent is determined by a period of time outlined in the
 25 lease agreement, such as a week-to-week or a month-to-month agreement. For example,
 26 assume Harry does not intend to use his lake cabin for a while, so Harry allows his friend
 27 Bill to live in the cabin for \$100 per week. A tenancy at will has been created because Bill
 28 has been given permission to use the cabin and a rental rate has been agreed upon, but no
 29 ending date was established.

30 Florida statute calls this a *tenancy without specific term*. Tenancies at will may be writ-
 31 ten or oral agreements. All the duties and obligations of a landlord-tenant relationship
 32 exist in a tenancy at will, and notice of termination is required by either party. Notice for
 33 termination of tenancies at will is set in statute and is based on the time interval between
 34 rent payments:

- 35 ■ Week to week—7 days’ notice
- 36 ■ Month to month—15 days’ notice

37 Other actions that will terminate a tenancy at will include sale of the property or the
 38 death of the owner or the renter.

83.04, F.S.

1 **Tenancy at Sufferance.** A **tenancy at sufferance** occurs when a tenant stays in possession of the property beyond the ending date of a legal tenancy without the consent of the landlord. The tenant has no estate or title but only “naked” possession and is not entitled to notice to terminate. The payment and acceptance of rent alone must not be construed to be a renewal of the lease. However, if the tenant’s *holding over* is continued with the written consent of the lessor, then the tenancy becomes a tenancy at will under Florida law.

8 **Sole Ownership vs. Concurrent Ownership**

61.075, F.S.

9 When title to property is held by one person, it creates an **estate in severalty** or sole ownership (to help you remember, think of this ownership interest as “severed” or cut away from any other ownership interest). **Separate property** is property that a spouse owns in the spouse’s name only before marriage and property acquired by one spouse during the marriage by inheritance or gift.

14 Property acquired during marriage, except by inheritance or gift, is referred to as **marital assets**. For example, one spouse may purchase a property with her own savings and title the property in her name only. Unless the couple signed a prenuptial agreement, the property is legally a marital asset. If the couple later divorces the courts will divide marital property “equitably.”

19 When working with sellers, it is important to know the existing form of ownership as it determines who must sign the various documents. Generally, if a property is owned as an estate in severalty, only the signature of the owner is required on the deed. However, if the property is homesteaded, regardless of whether both names or only one spouse’s name is on the deed, both spouses must sign the deed.

FIGURE 8.6 ■ Concurrent Ownership

34
37

Tenancy in Common	Tenancy by Entireties	Joint Tenancy
Two or more people	Married couple	Two or more people
Undivided possession	Undivided possession	Undivided possession
Equal or unequal percentage	Each spouse 100%	Equal percentage
Same or different time	Same time	Same time
Same or different title	Same title	Same title
No right of survivorship (Heirs inherit)	Right of survivorship (Surviving spouse inherits)	Right of survivorship (Surviving owner(s) inherit)

68

24 Ownership of property by two or more persons at the same time is called **concurrent ownership**. There are three types of estates (or tenancies) with concurrent owners: tenancy in common, tenancy by the entireties, and joint tenancy.

27 **Tenancy in Common.** When two or more persons wish to share the ownership of a single property, they may choose a tenancy in common. It is the most frequently used form of co-ownership, except for ownership by a married couple. A **tenancy in common** allows flexibility in how and when persons take title to property. For example, two or more owners may acquire title in any of the following combinations: same or different title (deed instruments); same or different time (date of execution), and hold an equal or unequal percentage of the ownership. Tenants in common own an undivided interest in the whole property. An **undivided interest** (also called undivided possession) is interest in the entire property rather than ownership of a particular portion of the property.

1 **EXAMPLE:** Sally and Kathy own a house as tenants in common. Sally holds two-
2 thirds interest in the entire property, and Kathy owns one-third interest in the entire
3 property. When Sally and Kathy die, their interest in the property will descend to their
4 heirs. On Sally's death, for example, her two-thirds interest in the property will descend to
5 her legal heirs (or as instructed in her will).

689.15, F.S.

6 **Tenancy by the Entireties.** A tenancy by the entireties is an estate that can only be
7 created between a married couple. A tenancy by the entireties applies to all types of
8 property purchased by a married couple. Residential, commercial, and industrial property
9 purchased by a married couple together can be held as a tenancy by the entireties. The
10 deed or other instrument of conveyance does not have to state expressly that a tenancy
11 by the entireties exists. If the parties are truly married to each other, the estate is implied.
12 While not mandatory, the deed should reflect a tenancy by the entireties to serve notice
13 to others that such an estate exists. The deed, for example, typically would indicate John
14 P. Smith and Sally R. Smith are a married couple.

15 With a tenancy by the entireties, each spouse has undivided possession of a 100%
16 interest in the property. When one spouse dies, that individual's ownership interest auto-
17 matically transfers to the surviving spouse by **right of survivorship**. This means that at the
18 time of death of either spouse, the ownership interest automatically transfers to the sur-
19 viving spouse. The surviving spouse immediately owns the property without it becoming
20 a part of the decedent's estate. The surviving spouse will own the property in fee simple,
21 and because the title conveys to the only surviving spouse, an estate in severalty (or sole
22 ownership) exists. A tenancy by the entireties can only exist between a married couple;
23 therefore, should the couple divorce, all property owned as a tenancy by the entireties will
24 automatically become a tenancy in common, with each former spouse having undivided
25 possession of an equal 50% share in the property.

26 When property is purchased by a married couple, unless provided otherwise, a tenancy
27 by the entireties is created. If desired, a married couple could buy property together as
28 a tenancy in common. In such a case, each would have 50% interest, they could own it
29 60%/40%, or something else, provided the deed specifically indicates each owner's per-
30 centage. One should not assume that simply because a couple is married, they want to
31 purchase property as a tenancy by the entireties. The couple may choose instead to take
32 title to the property as a tenancy in common. For example, a tenancy in common may
33 be preferred if the married couple have children from a previous marriage. If the property
34 is held as tenants in common, recall that each person's interest will descend to the ten-
35 ant's heirs. Therefore, in this situation, a tenancy in common may be preferred so that a
36 spouse can provide for their children from a previous marriage. The exception to a married
37 couple choosing a tenancy in common is if the property is the couple's homestead (see
38 "Homestead," earlier in this unit and Figure 8.7).

FIGURE 8.7 ■ Homestead Protection vs. Estate by the Entireties

Homestead	Tenancy by the Entireties
Protects the non-owning surviving spouse	Protects the owning surviving spouse
Protection applies to the principal residence	Protection applies to all types of property purchased by the married couple
If the owning spouse dies, the surviving spouse receives a life estate if there are children; if there are no children, the surviving spouse receives a fee simple estate in the homestead	At death of either spouse, ownership interest automatically transfers to the surviving spouse by right of survivorship
In the event of divorce, the non-owning spouse loses all protection in the homesteaded property	In event of divorce, by operation of law, the tenancy by entireties becomes a tenancy in common with each spouse having an equal share

1 **Joint Tenancy.** A joint tenancy features the right of survivorship, as does tenancy by
 2 the entireties. Recall that in a tenancy by the entireties, the right of survivorship meant
 3 that when one spouse (co-owner) died, the decedent's interest in the property automati-
 4 cally conveyed to the surviving spouse. In a joint tenancy, *right of survivorship* means that
 5 the share of a co-owner who has died goes to the surviving co-owner(s) and not to the
 6 deceased owner's heirs. Because a joint tenancy features the right of survivorship, for clar-
 7 ity, a true joint tenancy cannot be created unless specific wording in the deed provides for
 8 survivorship. Under present law, a deed conveying an estate in joint tenancy, to ensure
 9 the right of survivorship, must include wording similar to "as joint tenants with right of
 10 survivorship and not as tenants in common." The right of survivorship prevents disposi-
 11 tion of the property by will or descent to heirs.

12 Joint tenants have undivided possession and an equal ownership interest in the real
 13 property. As joint tenants die, their shares are divided among the surviving tenants until
 14 only one owner is left. The sole survivor then has a fee simple estate in severalty.

15 **EXAMPLE:** Bob, Bill, and Betty own 10 acres as joint tenants with right of survi-
 16 vorship, each owning a third share in the entire property. If Bob dies, Bill and Betty will
 17 remain as joint tenants, with each having a 50% share of ownership. If Bill dies later,
 18 Betty is the sole surviving joint tenant. At the time of Bill's death, Betty owns the property
 19 in severalty.

20 A joint tenant who wants to sell her share of a property may do so. However, the per-
 21 son who buys that share cannot be a joint tenant with the other original owners. This is
 22 because all of the joint tenants must acquire title together—that is, be named as grantee
 23 on the same deed instrument. Instead, the new owner will be a tenant in common without
 24 the right to receive any property on the death of one of the original joint tenants. The
 25 tenant in common's share can be disposed of by will, descent, or other arrangement.

26 **EXAMPLE:** John, Jim, Jill, and Jane own an office building as joint tenants with
 27 right of survivorship. Each joint tenant has undivided possession with equal ownership
 28 interest. Jim sells his ownership interest (25%) to Sally. Sally is a tenant in common,
 29 while John, Jill, and Jane remain joint tenants. If John should die, his 25% interest will
 30 be divided between Jill and Jane. If Sally should die, her interest will go to her heirs or
 31 according to her will.

TO REMEMBER: FOUR UNITIES OF A JOINT TENANCY

P	Possession	Joint tenants have the same rights of undivided possession
I	Interest	Joint tenants have equal ownership interest
T	Title	Joint tenants acquire title on the same instrument (deed)
T	Time	Joint tenants acquire their interests in the property at the same time

Practice Questions

Andrew holds title to the property for his lifetime. The deed that Lucille executed states that upon Andrew's death, title to the property will transfer to her two children, Kathryn and Lynn.

13. Kathryn and Lynn hold a _____ estate during Andrew's lifetime.
14. Andrew has a _____ estate in the property.
15. List the four unities of a joint tenancy.
 1. _____
 2. _____
 3. _____
 4. _____
16. List the two types of estates that provide for right of survivorship.
 1. _____
 2. _____
17. List the number of days' notice to vacate that a tenant at will must be given, based on rent payment time intervals.
 1. Week to week: _____
 2. Month to month: _____
18. A freehold estate is an estate of _____ for an _____ period of time.
19. The most comprehensive estate with the largest bundle of legal rights is the _____ estate.
20. Leasehold estates are estates of _____ and are also called _____ estates.
21. Spouses who take ownership of property together create a tenancy _____.
22. A tenancy for years must have a definite _____ and _____ date.

23. If title passes upon the death of a life tenant to someone other than the original grantor, the person receiving title is called a _____.
24. A life estate created by the grantor is called a _____ life estate; whereas a life estate created by law is called a _____ life estate.

8.5 COOPERATIVES, CONDOMINIUMS, AND TIME-SHARING

Background

In Florida, the Cooperative Act (719, F.S.), the Condominium Act (718, F.S.), and the Florida Vacation Plan and Timesharing Act (721, F.S.) establish rights and obligations of the developer, the association, and unit owners and buyers. These statutes all require that, before the sale of developer residential shared housing, purchasers be provided with certain disclosure statements. These statements include, for example, property description, form of title-interest, description of common areas and amenities, existence of judgments or liens, management arrangements, escrow provisions for deposits, restrictions on the sale or transfer of units, apportionment of common expenses, construction completion date, estimated operating budget, estimated closing costs, and copies of key documents.

The Division of Florida Condominiums, Timeshares, and Mobile Homes of the Department of Business and Professional Regulation is the state agency charged with ensuring compliance with the laws regulating all three of these multiple-ownership forms. Because Florida is perhaps the most active of the states in producing and promoting multiple-ownership dwelling units, a complete description of cooperatives, condominiums, and time-sharing is appropriate here.

Cooperatives

719, F.S.

A **cooperative**, cooperative association, or co-op is a multiunit building that is owned by a corporation. The corporation holds title to the land and improvements. The unit owners purchase shares of stock in the corporation. Ownership of the stock entitles the purchaser to a **proprietary lease** and the right to occupy the unit.

The Cooperative Act stipulates that property taxes and special assessments be assessed against each cooperative unit (not against the corporation). The taxes and special assessments levied constitute a lien only on the individual unit. Shareholders pay a *pro rata* share of the property taxes, and the corporation pays the property tax bill. Owners-shareholders may deduct their real estate taxes and mortgage interest from taxable income. Shareholders also pay the corporation a monthly assessment based on a proportional share of the amount necessary for the payment of common expenses such as operating and maintenance expenses. Transfer of ownership of a cooperative unit is accomplished by sale of the stock.

719.503,
F.S.

Disclosures and Cancellation Period. The developer is required to include a disclosure in the sale contract stating that the buyer of a residential cooperative unit may cancel the contract within 15 calendar days of signing the contract and receipt by the buyer of all items required by F.S. 719. The contract for resale of a residential cooperative unit must include a clause stating that the buyer acknowledges receipt of the articles of incorporation of the association, the bylaws and rules of the association, and the question and answer sheet at least three business days before signing the contract. If the buyer has not received these required documents before signing the contract, the contract for resale must include a clause stating that the buyer may cancel the contract within three business days of receipt of these required documents (see Figure 8.8). The buyer's right to cancel

- 1 the contract terminates at closing. A contract for sale of a residential cooperative unit
2 that does not include either disclosure is voidable by the buyer.

FIGURE 8.8 ■ Cooperative, Condominium, and Time-Share Rescission Periods

3 business days	Resale residential cooperative apartments and condominium units
10 calendar days	Time-shares sold by developer or resale
15 calendar days	Residential cooperative apartments and condominium units sold by developer

3 **Condominiums**

718, F.S.

4 A **condominium** consists of condominium units and common elements. Condomini-
5 ums may look like apartment buildings, attached town houses, or freestanding houses;
6 what makes the structures condominiums is how the developer organized the association.
7 The Condominium Act provides that an association, usually a not-for-profit corporation,
8 is responsible for operating the condominium. The condominium association is run by a
9 board of directors, initially appointed by the developer, and subsequently turned over to
10 elected directors.

11 A condo purchaser owns an individual unit in fee simple. The deed to the unit may
12 be held by one or more persons in any type of estate or tenancy recognized by state law.
13 The unit owner also owns an undivided fractional (proportionate) share of the common
14 elements. **Common elements** are those portions of the condominium property that are
15 not included in the units but are legally attached to each unit and are transferred with the
16 unit when it is sold. A deed to a unit conveys the unit to the purchaser together with its
17 proportionate ownership interest in the common elements. Property taxes are levied on
18 individual units.

19 **Condominium documents** are a set of written instruments describing the condo-
20 minium and the association. The four condominium documents in the following list are
21 required to be given to buyers of residential units sold by the developer and to buyers of
22 resale condominium units (see Figure 8.9).

- 23 1. *Declaration.* The **declaration of condominium** is an important condominium
24 document because it is the document that creates the condominium. Creation of
25 the condominium occurs when the declaration is recorded in the official records
26 of the county where the property is located.
- 27 2. *Articles of incorporation.* The operation of a condominium is carried out through
28 its association. The articles of incorporation create the corporate entity respon-
29 sible for operating the condominium.
- 30 3. *Bylaws.* The bylaws describe the rules and regulations of the association. It pro-
31 vides for the administration of the association, including procedures for calling
32 meetings, determining voting requirements, and so forth. Each purchaser, by
33 accepting title to a unit, automatically becomes an association member and is
34 bound by the association rules and regulations.
- 35 4. *Frequently asked questions and answers sheet (FAQ).* The FAQ informs prospective
36 purchasers about restrictions on the leasing of a unit, information concerning
37 assessments, and whether and in what amount the unit owners or the association
38 are obligated to pay rent or land use fees for recreational facilities.

1 **Condominium Units Sold by a Developer.** In addition to the four condominium docu-
2 ments listed previously, there are two additional disclosures required to be given to pro-
3 spective buyers when purchasing residential units from a developer (see Figure 8.9).

- 4 1. *Prospectus.* The developer is required to provide a **prospectus** (offering circular)
5 to purchasers if the condominium consists of more than 20 residential units. The
6 prospectus summarizes some of the major points detailed in the condominium
7 documents.
- 8 2. *Estimated operating budget.* The estimated operating budget provides detailed esti-
9 mates of various common expenses that are to be shared by the unit owners.

718.503,
F.S.

10 Buyers who are purchasing condominium units from the developer have a 15-day can-
11 cellation period. The developer must include a disclosure statement in the sale contract
12 stating that the buyer has the right to cancel the agreement within 15 calendar days after
13 the date of signing the contract and receipt of the condominium documents (6 documents
14 in total listed previously). The developer will require buyers to sign a receipt for condo-
15 minium documents. Buyers should verify that they have received all the documents listed
16 on the receipt before signing.

718.504,
F.S.

17 **Resale Condominium Units Sold by Unit Owner.** In addition to the four condominium
18 documents previously discussed, unit owners of resale condominium units must give buy-
19 ers three additional disclosures (see Figure 8.9).

- 20 1. *Most recent year-end financial report.*
- 21 2. *Rules of the association.*
- 22 3. *Governance form.* The governance form was developed by the Division of Florida
23 Condominiums, Timeshares, and Mobile Homes to educate prospective purchas-
24 ers on the rights and responsibilities of the condominium board and unit owners.
25 The form was developed for use by condominium unit owners to give prospective
26 buyers.

FIGURE 8.9 ■ Condominium Disclosures

	Developer (More than 20 New Residential Units)	Resale
Prospectus	✓	
Estimated operating budget	✓	
Most recent year-end financial report		✓
Rules of the association		✓
Governance form		✓
Declaration	✓	✓
Articles of incorporation	✓	✓
Bylaws	✓	✓
FAQ	✓	✓

27 The contract for resale of a residential condominium unit must include a rider stating
28 that the buyer acknowledges receipt of the condominium documents and that the prospec-
29 tive buyer may cancel the contract within three business days after the date of execution
30 of the contract and receipt by the buyer of the condominium documents. The cancellation
31 period does not begin until the condominium documents have been delivered. A buyer
32 should verify that all documents have been received before signing the receipt for delivery
33 of the documents.

1 If a prospective buyer chooses to timely cancel the contract, a real estate broker may
 2 return the escrowed binder deposit to the prospective purchaser without first securing the
 3 seller's permission, provided the broker is notified in writing that the buyer is canceling
 4 the contract during the statutory cancellation period. Even if the seller objects, the real
 5 estate license law states that the broker may return the deposit to the purchaser without
 6 having to notify the Commission of conflicting demands.

7 The DBPR's Division of Florida Condominiums, Timeshares, and Mobile Homes
 8 "Condominium Governance Form," is available at [http://www.myfloridalicense.com/dbpr/
 9 lsc/documents/CondominiumGovernanceForm.pdf](http://www.myfloridalicense.com/dbpr/lsc/documents/CondominiumGovernanceForm.pdf).

WEBLINK

10 The Division of Florida Condominiums, Timeshares, and Mobile Homes publishes "A
 11 Guide to Purchasing a Condominium." It is available at [www.myfloridalicense.com/dbpr/
 12 lsc/documents/purchasing_guide.pdf](http://www.myfloridalicense.com/dbpr/lsc/documents/purchasing_guide.pdf).

13 Time-Sharing

721, F.S.

14 Time-sharing evolved out of the vacation condominium concept. The property is first
 15 organized as a condominium. Each unit is divided into time intervals of ownership, usually
 16 52 weeks. A deed or some evidence of share ownership or right of occupancy is prepared
 17 for each time interval. **Time-share** ownership involves an undivided interest in a living
 18 unit according to the number of weeks purchased. For example, if one week is purchased,
 19 the buyer owns a $\frac{1}{52}$ interest in the unit. Size, location, amenities, and time of year all
 20 affect the purchase price of the time-share unit.

21 **Time-Share Act.** Buyers of time-share units in Florida are protected by the Condominium
 22 Act and by the Florida Vacation Plan and Timesharing Act. Florida Statute Chapter 721
 23 applies to time-share plans in Florida consisting of more than seven time-share periods
 24 over a span of at least three years.

475.011,
F.S.

721.20, F.S.

25 **Licensure Requirements and Exemptions.** A real estate license is required to sell time-
 26 share plans unless specifically exempted. Owner-developers who develop and sell time-share
 27 units may hire unlicensed sales personnel, provided the salespeople are salaried employees
 28 who are not paid a commission and who do not receive compensation on a transaction basis,
 29 such as bonuses based on sales quotas. Owners of time-share periods who own the time-share
 30 for their own use and occupancy are exempt from licensure.

721.11, F.S.

31 **Time-Share Disclosures.** The Commission requires licensees who advertise, list, or sell
 32 time-share periods to provide disclosures in the listing agreement, advertisements, and
 33 sale contracts.

61J2-
23.001,
F.A.C.61J2-
23.002,
F.A.C.

34 **Time-Share Resale Listing Agreement Disclosures.** FREC rules require that all agree-
 35 ments engaging the services of a broker in connection with the resale of a time-share
 36 period must contain the following disclosure, be included in conspicuous type, and located
 37 immediately above the space in the listing agreement reserved for the signature of the
 38 owner of the time-share period:

39 **There is no guarantee that your time-share period can be sold at any particu-
 40 lar price or within any particular period of time.**

41 Any written advertising material used by a broker or sales associate in connection
 42 with the solicitation of a listing agreement for the resale of a time-share period must
 43 also contain the disclosure statement in conspicuous type. It is unlawful for a real estate
 44 licensee to collect an advance fee for the listing of a time-share unit.

- 1 The listing agreement must also disclose
- 2 ■ fees, commissions, or other costs or compensation to be paid to the broker
 - 3 directly or indirectly;
 - 4 ■ term of the agreement, a statement regarding the ability to extend the term of
 - 5 the agreement, and a description of all related costs and conditions under which
 - 6 the agreement may be extended;
 - 7 ■ broker services under the agreement, the costs and obligations of each party
 - 8 regarding a resale purchase, and obligations regarding notification of the manag-
 - 9 ing entity of the time-share plan and any exchange company;
 - 10 ■ whether the agreement grants exclusive rights to the broker to locate a pur-
 - 11 chaser, to whom and when any proceeds from the sale of the time-share period
 - 12 will be disbursed, whether any party may terminate the agreement and the condi-
 - 13 tions for termination, and the broker compensation due from any party upon
 - 14 termination of the agreement before closing of the resale;
 - 15 ■ whether the agreement allows the broker or other person to make use of the
 - 16 time-share period and a description of any such rights, including to whom any
 - 17 rents or profits generated from such use of the time-share period will be paid; and
 - 18 ■ the existence of any judgments or pending litigation against the broker resulting
 - 19 from or alleging a violation of Chapter 475, 498, 718, or 721, F.S., or resulting
 - 20 from alleging consumer fraud.

21 **Time-Share Resale Contract Disclosures.** FREC rules require that a contract for resale
22 of a time-share period used by a real estate licensee contain the following disclosure in at
23 least 10-point, capitalized type located immediately above the purchaser's signature:

24 THE CURRENT YEAR'S ASSESSMENT FOR COMMON EXPENSES ALLOCABLE
25 TO THE TIME-SHARE PERIOD YOU ARE PURCHASING IS _____. THIS ASSESS-
26 MENT, WHICH MAY BE INCREASED FROM TIME TO TIME BY THE MANAGING
27 ENTITY OF THE TIME-SHARE PLAN, IS PAYABLE IN FULL EACH YEAR ON OR
28 BEFORE _____. THIS ASSESSMENT (INCLUDES/DOES NOT INCLUDE) YEARLY
29 AD VALOREM REAL ESTATE TAXES, WHICH (ARE/ARE NOT) BILLED AND
30 COLLECTED SEPARATELY.

31 If ad valorem real property taxes are not included in the current year's assessment for
32 common expenses, the following statement must be included:

33 THE MOST RECENT ANNUAL ASSESSMENT FOR AD VALOREM REAL ESTATE
34 TAXES FOR THE TIME-SHARE PERIOD YOU ARE PURCHASING IS _____. EACH
35 OWNER IS PERSONALLY LIABLE FOR THE PAYMENT OF HIS ASSESSMENTS
36 FOR COMMON EXPENSES, AND/OR OWNERSHIP RIGHTS.

37 The broker may rely on information provided in writing by the managing entity of the
38 time-share plan when making the required disclosures. The contract for purchase must
39 also include the

- 40 ■ form of time-share ownership being purchased and a legally sufficient description
- 41 of the time-share period being purchased;
- 42 ■ name and address of the managing entity of the time-share plan;
- 43 ■ terms and conditions of the purchase and closing, including the obligations of
- 44 the seller or the purchaser regarding closing costs and title insurance; and
- 45 ■ existence of any mandatory exchange program membership included in the time-
- 46 share plan.

1 **Right to Cancel Purchase Agreement.** The Florida Vacation Plan and Timesharing Act
 2 requires that purchasers be informed that they may cancel the contract within 10 calendar
 3 days of contract signing or receipt of the public offering statement, whichever is later (see
 4 Figure 8.8). The 10-calendar-day rescission period applies to time-share periods sold by
 5 the developer as well as resales.

6 **Time-Share Ownership.** The form of time-share ownership is normally divided into two
 7 types of legal formats:

- 8 1. *Interval ownership.* Interval ownership is a “deeded interest” time-share format
 9 that provides for fee simple ownership of each unit in specific time increments
 10 and allows the buyer to purchase a fractional interest in a unit. The owner has
 11 the right to sell, rent, will, or give away the fractional interest in the unit.
- 12 2. *Right to use.* The time-share purchaser receives the right to use the unit for a
 13 specified number of years, usually 20 to 40 years. At the end of the specified
 14 years, the usage rights revert to the developer-seller. The developer can increase
 15 or add fees and assessments, and sell the time-share to a third party. At the end
 16 of the specified years, the usage rights revert back to the developer-seller. Owners
 17 may lose their right to use if the developer goes bankrupt.

Practice Questions

25. Stock ownership in the corporation entitles the purchaser to the right of occupancy through a _____.
26. The shareholders pay a _____ share of the property taxes to the corporation and the corporation pays the tax bill.
27. Transfer of ownership of a cooperative unit is accomplished by sale of _____.
28. Condominium purchasers own an individual unit in _____ in addition to an _____ interest in the _____.
29. Condominium property taxes are levied on _____.
30. Transfer of ownership of a condominium unit is accomplished by transfer by _____.
31. Recording of the _____ creates the condominium.
32. The “deeded interest” legal format of time-share ownership is called _____.

8.6 SUMMARY OF IMPORTANT POINTS

- 18
- 19 ■ *Land* refers to the surface of the earth and everything attached to it by nature.
- 20 ■ *Real estate* refers to the land and improvements.
- 21 ■ *Real property* includes all real estate plus the bundle of rights.
- 22 ■ Physical components of land are surface rights, subsurface rights, and air rights.
- 23 ■ Any tangible asset that is not real property is personal property (movable items or chattel).
- 24

- 1 ■ The four tests regarding fixtures are (1) intent of the parties, (2) relationship or
2 agreement of the parties, (3) method or degree of attachment, and (4) adapta-
3 tion of the item.
- 4 ■ The bundle of legal rights consists of the following: right of disposition, right of
5 enjoyment, right of exclusion, right of possession, and the right of control.
- 6 ■ A *freehold estate* is an ownership interest for an indefinite period. Fee simple is
7 the most comprehensive freehold estate, and it is inheritable. A life estate is also
8 a freehold estate, but it is measured by an individual's natural life span.
- 9 ■ A *leasehold estate*, or nonfreehold estate, is a tenant interest in real property mea-
10 sured in calendar time. The three types of leasehold estates are estate for years,
11 tenancy at will, and tenancy at sufferance.
- 12 ■ An *estate for years* is a tenancy with a specific starting and ending date.
- 13 ■ A *tenancy at will* is a lease agreement that has a beginning date but no fixed ter-
14 mination date.
- 15 ■ A *tenancy at sufferance* occurs when a tenant retains possession of the property
16 beyond the ending date of a legal tenancy without the consent of the landlord
17 (tenant holds over).
- 18 ■ Sole ownership and concurrent ownership are ways that people hold freehold
19 estates. An estate in severalty is created when title to property is in one person's
20 name (sole owner). Ownership by two or more persons at the same time is con-
21 current ownership.
- 22 ■ The three types of concurrent ownership are (1) tenancy in common, (2) joint
23 tenancy, and (3) tenancy by the entirety.
- 24 ■ Tenants in common have an undivided interest in the entire property. This
25 interest can be left in a will or passed to heirs if there is no will.
- 26 ■ The four unities of a joint tenancy are (1) possession, (2) interest, (3) title, and
27 (4) time. Joint tenancies are characterized by right of survivorship (when one
28 co-owner dies, the deceased's share goes to the surviving co-owner).
- 29 ■ To create a tenancy by the entirety, the co-owners must be married to each
30 other at the time they take title. The share of a deceased spouse automatically
31 transfers to the surviving spouse by right of survivorship.
- 32 ■ The primary Florida residence of a homeowner qualifies for certain benefits and
33 protections. These benefits include protection of the family, protection of the
34 homestead, and a tax exemption from the assessed value.
- 35 ■ Purchasers of a unit in a cooperative buy shares of stock in a corporation. A pro-
36 prietary lease entitles the purchaser to the right to occupy the unit.
- 37 ■ A *condominium* is real property consisting of condo units and common elements.
38 A condominium is created by recording the declaration of condominium. The
39 articles of incorporation create the corporate entity responsible for operating the
40 condominium.
- 41 ■ Developers of more than 20 residential condo units must give purchasers a copy
42 of the prospectus.
- 43 ■ There is a three-business-day cooling off period to cancel a condominium con-
44 tract for sale from a property owner. There is a 15-calendar-day notice to cancel
45 a condominium contract for sale from a developer.
- 46 ■ All listing agreements in connection with the resale of a time-share period must
47 contain a disclosure stating that there are no guarantees regarding price or when
48 the time-share unit may sell.

UNIT 8 EXAM

1. The MOST comprehensive interest in real property that an individual may possess is
 - a. an estate for years.
 - b. a life estate.
 - c. a remainder estate.
 - d. a fee simple estate.
2. Physical components of real property do NOT include
 - a. surface.
 - b. air space.
 - c. equitable rights.
 - d. subsurface.
3. Fixtures are items that
 - a. are fixed, or attached, to real property.
 - b. were once personal property but are now real property.
 - c. have been incorporated as a part of real property.
 - d. are all of these.
4. Which statement regarding cooperatives and condominiums is TRUE?
 - a. The purchaser of a cooperative unit owns in fee simple; the purchaser of a condominium signs a proprietary lease.
 - b. The buyer of a cooperative unit receives a deed, which includes the legal description of the cooperative and a fractional part of the common elements; the buyer of a condominium purchases shares of stock in the condominium corporation.
 - c. Condominiums are regulated by the Division of Florida Condominiums, Timeshares, and Mobile Homes; cooperative units are regulated by the Division of Real Estate.
 - d. Ad valorem taxes are assessed against each cooperative unit and each condominium unit.
5. The bundle of legal rights associated with real property does NOT include
 - a. control.
 - b. possession.
 - c. disposition.
 - d. utility.
6. A son gives his mother a conventional life estate for her lifetime. The deed states that upon her death, the property will transfer to her granddaughter. What type of estate does the granddaughter possess during the grandmother's lifetime?
 - a. Remainder estate
 - b. Life estate
 - c. Estate in reversion
 - d. Contingent estate
7. At the expiration of the lease period and before renegotiation of the lease, a tenant continued to occupy the apartment. The tenant's position is called
 - a. a tenancy at will.
 - b. a tenancy at sufferance.
 - c. a freehold estate.
 - d. an estate in reversion.
8. A family received a microwave as a housewarming gift. The microwave was installed above the range by screwing the unit to the kitchen cabinets and venting it through the attic. The microwave is considered
 - a. a fixture.
 - b. a trade fixture.
 - c. separate property.
 - d. personal property.
9. The homestead tax exemption is deducted from the
 - a. market value of a property.
 - b. assessed value of a property.
 - c. sale price of a property.
 - d. total cost, including all improvements.
10. A married couple own a homesteaded property with title in both names. They have one minor child and one adult son. One spouse dies. Which is MOST correct?
 - a. The surviving spouse owns a life estate in the home.
 - b. The property is split equally among the surviving spouse and the children.
 - c. The surviving spouse owns the entire home through right of survivorship.
 - d. The children own the home in fee simple.

11. The real estate protected by homestead rights is limited to
 - a. 640 acres outside a city or town and 1 acre in town.
 - b. 160 acres outside a city or town and 0.5 acres in town.
 - c. 40 acres outside a city or town and 0.5 acres in town.
 - d. 160 acres outside a city or town or 0.5 acres in town.
12. A constitutional homestead is owned by a man who is head of a family consisting of himself, his wife, and their three children. The man dies unexpectedly. After his death,
 - a. the widow owns the homestead in fee simple.
 - b. by operation of law, the widow owns a life estate in the homestead, and the children are vested remaindermen.
 - c. the homestead will be distributed according to Florida's probate law.
 - d. the homestead will descend to the man's heirs as specified in his will.
13. Which estate features right of survivorship?
 - a. Leasehold estate
 - b. Estate by the entirety
 - c. Tenancy at will
 - d. Tenancy in common
14. Chapter 475, F.S., defines real property as any interest or estate in
 - a. land, improvements, leaseholds, subleaseholds, mineral rights, cemetery lots, or any assignment thereof.
 - b. land, improvements, business enterprises and business opportunities, leaseholds, subleaseholds, mineral rights, mobile homes, or any assignment thereof.
 - c. land, business enterprises and business opportunities, leaseholds, subleaseholds, mineral rights, cemetery lots, mobile home lots, or any assignment thereof.
 - d. land, business enterprises and business opportunities, including any assignment, leasehold, subleasehold, or mineral rights.
15. In Florida, cooperatives and time-shares are regulated by the
 - a. Division of Real Estate.
 - b. Division of Florida Condominiums, Time-shares, and Mobile Homes.
 - c. Department of Housing and Urban Development.
 - d. Florida Real Estate Commission.
16. A condominium unit buyer has how long to cancel the purchase contract after signing an agreement with a developer?
 - a. 3 days
 - b. 10 days
 - c. 15 days
 - d. 20 days
17. Developers of condominium projects with more than 20 units must give buyers
 - a. a copy of the prospectus.
 - b. the names and business addresses of real estate sales associates assigned.
 - c. the names of all current unit owners.
 - d. the names of unit owners, unit numbers, and amounts due from unit owners delinquent in monthly assessment fees.
18. Which characteristic applies to condominium ownership?
 - a. The corporation holds title to land and improvements.
 - b. The purchaser receives shares of stock in the corporation.
 - c. A proprietary lease entitles the purchaser to occupy a unit.
 - d. The purchaser receives a deed to a particular unit.
19. All these apply to the constitutional homestead exemption EXCEPT
 - a. protection from forced sale for nonpayment of certain debts.
 - b. deduction of up to \$50,000 from the assessed value of the homesteaded property, if claimed.
 - c. claimants must hold title to the property and use the home as their principal residence.
 - d. it automatically creates a tenancy by the entirety if the person filing for homestead is married.
20. A woman paid cash for a 60-acre lemon grove in Citrus County. The estate is for an indefinite period of time. The woman does NOT own which type of estate in the property?
 - a. Fee simple estate
 - b. Freehold estate
 - c. Leasehold estate
 - d. Estate in severalty