

28 (1) (a) Beginning on May 5, 1997, every ownership interest in real estate granted to
29 two persons in their own right who are designated as husband and wife in the granting
30 documents is presumed to be a joint tenancy interest with rights of survivorship, unless
31 severed, converted, or expressly declared in the grant to be otherwise.

32 (b) Every ownership interest in real estate [~~which~~] that does not qualify for the joint
33 tenancy presumption as provided in Subsection (1)(a) is presumed to be a tenancy in common
34 interest unless expressly declared in the grant to be otherwise.

35 (2) (a) Use of words "joint tenancy" or "with rights of survivorship" or "and to the
36 survivor of them" or words of similar import means a joint tenancy.

37 (b) Use of words "tenancy in common" or "with no rights of survivorship" or
38 "undivided interest" or words of similar import [~~shall~~] declare a tenancy in common.

39 (3) A sole owner of real property [~~shall create~~] creates a joint tenancy in himself and
40 another or others:

41 (a) by making a transfer to himself and another or others as joint tenants by use of the
42 words as provided in Subsection (2)(a); or

43 (b) by conveying to another person or persons an interest in land in which an interest is
44 retained by the grantor and by declaring the creation of a joint tenancy by use of the words as
45 provided in Subsection (2)(a).

46 (4) In all cases, the interest of joint tenants shall be equal and undivided.

47 [~~(5) A "joint tenancy" is severed and is converted into a "tenancy in common" by a
48 joint tenant by making a bona fide conveyance of the joint tenant's interest in the property to
49 himself or to another.]~~

50 (5) (a) Except as provided in Subsection (5)(b), if a joint tenant makes a bona fide
51 conveyance of the joint tenant's interest in property held in joint tenancy to himself or another,
52 the joint tenancy is severed and converted into a tenancy in common.

53 (b) If there is more than one joint tenant remaining after a joint tenant severs a joint
54 tenancy under Subsection (5)(a), the remaining joint tenants continue to hold their interest in
55 joint tenancy.

56 (6) The amendments to this section in Chapter 124, Laws of Utah 1997 have no
57 retrospective operation and shall govern instruments executed and recorded on or after May 5,
58 1997.

Legislative Review Note

as of 1-11-06 10:31 AM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel