Effective 5/1/2024

57-1-5 Creation of joint tenancy presumed -- Tenancy in common -- Severance of joint tenancy -- Tenants by the entirety -- Tenants holding as community property.

(1)

(a)

(i)

(A) Beginning on May 5, 1997, and ending on May 3, 2022, an ownership interest in real estate granted to two persons in their own right who are designated as husband and wife in the granting documents is presumed to be a joint tenancy interest with rights of survivorship, unless severed, converted, or expressly declared in the grant to be otherwise.

(B) Beginning on May 4, 2022, and ending on April 30, 2024, an ownership interest in real estate granted to two persons in their own right who are designated as spouses in the granting documents is presumed to be a joint tenancy interest with rights of survivorship, unless severed, converted, or expressly declared in the grant to be otherwise.

(C) An ownership interest granted on or after May 1, 2024, to two or more persons in their own right is presumed to be a joint tenancy with rights of survivorship, unless severed, converted, or expressly declared in the grant to be otherwise.

(ii) Except as provided in Subsection (1)(a)(iii), joint tenancy may be established between two or more people.

(iii) Joint tenancy may not be established between a person and an entity or organization, including:

(A) a corporation;

(B) a trustee of a trust; or

(C) a partnership.

(iv) Joint tenancy may not be established between an entity or organization and another entity or organization.

(b) An ownership interest in real estate that does not qualify for the joint tenancy presumption as provided in Subsection (1)(a) is presumed to be a tenancy in common interest unless expressly declared in the grant to be otherwise.

(2)

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

(b)

(i) Use of words "tenancy in common" or "with no rights of survivorship" or "undivided interest" or words of similar import declare a tenancy in common.

(ii) Use of words "and/or" in the context of an ownership interest declare a tenancy in common unless accompanied by joint tenancy language described in Subsection (2)(a), which creates a joint tenancy.

(3) A person who owns real property creates a joint tenancy in himself or herself and another or others:

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

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

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

(5)

(a) Except as provided in Subsection (5)(b), if a joint tenant makes a bona fide conveyance of the joint tenant's interest in property held in joint tenancy to himself or herself or another, the joint tenancy is severed and converted into a tenancy in common.
(b) If there is more than one joint tenant remaining after a joint tenant severs a joint tenancy under Subsection (5)(a), the remaining joint tenants continue to hold their interest in joint tenancy.
(6) The amendments to this section in Laws of Utah 1997, Chapter 124, have no retrospective operation and shall govern instruments executed and recorded on or after May 5, 1997.
(7) Tenants by the entirety are considered to be joint tenants.
(8) Tenants holding title as community property are considered to be joint tenants.

Amended by Chapter 100, 2024 General Session