

JOINT TENANCY PRESUMPTION AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Calvin R. Musselman

Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill clarifies a provision related to a joint tenancy interest presumption.

Highlighted Provisions:

This bill:

► clarifies that a joint tenancy interest presumption exists between two persons designated as spouses in the granting documents.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

57-1-5, as last amended by Laws of Utah 2011, Chapter 88

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **57-1-5** is amended to read:

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) Beginning on May 5, 1997, every ownership interest in real estate granted to two persons in their own right who are designated as [~~husband and wife~~] spouses in the



28 granting documents is presumed to be a joint tenancy interest with rights of survivorship,
29 unless severed, converted, or expressly declared in the grant to be otherwise.

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

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

34 (A) a corporation;

35 (B) a trustee of a trust; or

36 (C) a partnership.

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

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

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

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

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

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

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

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

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

57 (5) (a) Except as provided in Subsection (5)(b), if a joint tenant makes a bona fide
58 conveyance of the joint tenant's interest in property held in joint tenancy to himself or herself or

59 another, the joint tenancy is severed and converted into a tenancy in common.

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

63 (6) The amendments to this section in Laws of Utah 1997, Chapter 124, have no
64 retrospective operation and shall govern instruments executed and recorded on or after May 5,
65 1997.

66 (7) Tenants by the entirety are considered to be joint tenants.

67 (8) Tenants holding title as community property are considered to be joint tenants.