

**JOINT TENANCY PRESUMPTION AMENDMENTS**

2024 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Calvin R. Musselman**

Senate Sponsor: Daniel W. Thatcher

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**LONG TITLE**

**Committee Note:**

The Government Operations Interim Committee recommended this bill.

Legislative Vote: 11 voting for 0 voting against 5 absent

**General Description:**

This bill amends the presumption of joint tenancy for certain grants of ownership interest in real estate.

**Highlighted Provisions:**

This bill:

► provides that an ownership interest in real estate granted to two or more persons in their own right is presumed to be a joint tenancy with rights of survivorship unless otherwise declared in the grant.

**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 2022, Chapter 344

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



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

29 **57-1-5. Creation of joint tenancy presumed -- Tenancy in common -- Severance of**  
30 **joint tenancy -- Tenants by the entirety -- Tenants holding as community property.**

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

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

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

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

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

46 (A) a corporation;

47 (B) a trustee of a trust; or

48 (C) a partnership.

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

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

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

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

58 (ii) Use of words "and/or" in the context of an ownership interest declare a tenancy in

59 common unless accompanied by joint tenancy language described in Subsection (2)(a), which  
60 creates a joint tenancy.

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

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

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

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

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

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

75 (6) The amendments to this section in Laws of Utah 1997, Chapter 124, have no  
76 retrospective operation and shall govern instruments executed and recorded on or after May 5,  
77 1997.

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

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

80 **Section 2. Effective date.**

81 This bill takes effect on May 1, 2024.