

Representative Calvin R. Musselman proposes the following substitute bill:

JOINT TENANCY PRESUMPTION AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Calvin R. Musselman

Senate Sponsor: Daniel W. Thatcher

LONG TITLE

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 is presumed to be a joint tenancy with rights of survivorship.

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

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



26 **joint tenancy -- Tenants by the entirety -- Tenants holding as community property.**

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

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

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

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

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

42 (A) a corporation;

43 (B) a trustee of a trust; or

44 (C) a partnership.

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

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

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

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

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

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

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

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

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

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

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

71 (6) The amendments to this section in Laws of Utah 1997, Chapter 124, have no
72 retrospective operation and shall govern instruments executed and recorded on or after May 5,
73 1997.

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

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

76 Section 2. **Effective date.**

77 This bill takes effect on May 1, 2024.