

1                                   **JOINT TENANCY PRESUMPTION AMENDMENTS**

  2024 GENERAL SESSION

  STATE OF UTAH

**Chief Sponsor: Calvin R. Musselman**

                                  Senate Sponsor: Daniel W. Thatcher

---

---

3   **LONG TITLE**

4   **General Description:**

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

7   **Highlighted Provisions:**

8       This bill:

9       ▸ provides that an ownership interest in real estate granted to two or more persons is  
10   presumed to be a joint tenancy with rights of survivorship.

11   **Money Appropriated in this Bill:**

12       None

13   **Other Special Clauses:**

14       None

15   **Utah Code Sections Affected:**

16   AMENDS:

17       **57-1-5**, as last amended by Laws of Utah 2022, Chapter 344

---

---

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

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

21       **57-1-5 . Creation of joint tenancy presumed -- Tenancy in common -- Severance**  
22   **of joint tenancy -- Tenants by the entirety -- Tenants holding as community property.**

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

28       (B) Beginning on May 4, 2022, and ending on April 30, 2024, an ownership

29 interest in real estate granted to two persons in their own right who are  
30 designated as spouses in the granting documents is presumed to be a joint  
31 tenancy interest with rights of survivorship, unless severed, converted, or  
32 expressly declared in the grant to be otherwise.

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

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

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

41 (A) a corporation;

42 (B) a trustee of a trust; or

43 (C) a partnership.

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

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

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

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

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

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

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

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

- 63 (4) In all cases, the interest of joint tenants shall be equal and undivided.
- 64 (5) (a) Except as provided in Subsection (5)(b), if a joint tenant makes a bona fide  
65 conveyance of the joint tenant's interest in property held in joint tenancy to himself or  
66 herself or another, the joint tenancy is severed and converted into a tenancy in  
67 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  
70 interest in 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  
73 May 5, 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.