
HOUSE BILL 2538

State of Washington 52nd Legislature 1992 Regular Session

By Representatives Ludwig, Padden, Appelwick and Paris

Read first time 01/20/92. Referred to Committee on Judiciary.

1 AN ACT Relating to joint tenancy; and amending RCW 64.28.010 and
2 64.28.040.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 64.28.010 and 1963 ex.s. c 16 s 1 are each amended to
5 read as follows:

6 Whereas joint tenancy with right of survivorship permits property
7 to pass to the survivor without the cost or delay of probate
8 proceedings, there shall be a form of co-ownership of property, real
9 and personal, known as joint tenancy. A joint tenancy shall have the
10 incidents of survivorship and severability as at common law, including
11 the unilateral right of each tenant to sever the joint tenancy. Joint
12 tenancy shall be created only by written instrument, which instrument
13 shall expressly declare the interest created to be a joint tenancy. It
14 may be created by a single agreement, transfer, deed, will, or other

1 instrument of conveyance, or by agreement, transfer, deed or other
2 instrument from a sole owner to himself and others, or from tenants in
3 common or joint tenants to themselves or some of them, or to themselves
4 or any of them and others, or from husband and wife, when holding title
5 as community property, or otherwise, to themselves or to themselves and
6 others, or to one of them and to another or others, or when granted or
7 devised to executors or trustees as joint tenants: PROVIDED, That such
8 transfer shall not derogate from the rights of creditors.

9 **Sec. 2.** RCW 64.28.040 and 1985 c 10 s 2 are each amended to read
10 as follows:

11 (1) Joint tenancy interests held in the names of a husband and
12 wife, whether or not in conjunction with others, are presumed to be
13 their community property, the same as other property held in the name
14 of both husband and wife. Any such interest passes to the survivor of
15 the husband and wife as provided for property held in joint tenancy,
16 but in all other respects the interest is treated as community
17 property.

18 (2) Either husband or wife, or both, may sever a joint tenancy.
19 When a joint tenancy is severed, the property, or proceeds of the
20 property, shall be presumed to be their community property, whether it
21 is held in the name of the husband or wife, or both.

22 (3) This section applies as of January 1, 1985, to all existing or
23 subsequently created joint tenancies.