

2022 Joint Tenancy Changes

Summary: Beginning May 4, 2022, the phrase “Husband and Wife” will no longer create presumed joint tenancy in Utah.

After May 3, the word “Spouses” can be used to create presumed joint tenancy between married individuals.

Tenancy - The Basics

A simple definition of tenancy is how ownership rights in real property are held. In Utah, individuals most commonly hold title as a tenant in common or a joint tenant.

Tenants in Common

A tenant in common owns a fractional interest in the real property. This share of ownership can be specified or is divided equally among the other owners. For example, if title is held by Stanley Smith and John Doe, each owner is assumed to own 50% of the property. If a tenant in common dies, their interest in the property passes to their heirs or devisees, not to the other owners.

Joint Tenants

Joint Tenancy operates differently because a joint tenant’s interest is equal and undivided. When title is held in joint tenancy, there are rights of survivorship for the other vested owners. When a joint tenant dies, the other owners need only record an affidavit to terminate the interest of the deceased, and then title will pass automatically to the other owners.

Creating Joint Tenancy

Joint tenancy is created by adding the phrase “as joint tenants” after the grantee’s names on a recorded deed. Also, after May 5, 1997, presumed joint tenancy was created by including the phrase “husband and wife” after the grantee’s names.

2022 Update to Tenancy Laws

House Bill 276 passed into law during this year’s legislative session, and it modifies Utah’s joint tenancy statute (57-1-5). For deeds recorded after May 3, 2022, the addition of “Husband & Wife” will no longer create presumed joint tenancy and will be replaced by the designation of “Spouses”.

Not to worry, joint tenancy remains in effect for deeds recorded between May 5, 1997, and May 3, 2022, that used “Husband and Wife” for joint tenancy vesting



QR for HB276

The text of HB276 can be found by scanning the QR code or at this link:
<https://le.utah.gov/~2022/bills/static/HB0276.html>

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