

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 689

Short Title: Survivorship Law Clarified.

(Public)

Sponsors: Senator Soles.

Referred to: Judiciary I.

April 18, 1991

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THE LAW REGARDING CREATION OF A JOINT
TENANCY WITH RIGHT OF SURVIVORSHIP.

The General Assembly of North Carolina enacts:

Section 1. G.S. 41-2 reads as rewritten:

"§ 41-2. Survivorship in joint tenancy defined; proviso as to partnership.

Except as otherwise provided herein, in all estates, real or personal, held in joint tenancy, the part or share of any tenant dying shall not descend or go to the surviving tenant, but shall descend or be vested in the heirs, executors, or administrators, respectively, of the tenant so dying, in the same manner as estates held by tenancy in common: Provided, that estates held in joint tenancy for the purpose of carrying on and promoting trade and commerce, or any useful work or manufacture, established and pursued with a view of profit to the parties therein concerned, are vested in the surviving partner, in order to enable him to settle and adjust the partnership business, or pay off the debts which may have been contracted in pursuit of the joint business; but as soon as the same is effected, the survivor shall account with, and pay, and deliver to the heirs, executors and administrators respectively of such deceased partner all such part, share, and sums of money as he may be entitled to by virtue of the original agreement, if any, or according to his share or part in the joint concern, in the same manner as partnership stock is usually settled between joint merchants and the representatives of their deceased partners. Nothing in this section prevents the creation of a joint tenancy with right of survivorship in real or personal property if the instrument creating the joint tenancy expressly provides for a right of survivorship, and no other document shall be necessary to establish said right of survivorship. Upon conveyance to a third party by

1 less than all of three or more joint tenants holding property in joint tenancy with right of
2 survivorship, a tenancy in common is created among the third party and the remaining
3 joint tenants, who remain joint tenants with right of survivorship as between themselves.
4 Upon conveyance to a third party by one of two joint tenants holding property in joint
5 tenancy with right of survivorship, a tenancy in common is created between the third
6 party and the remaining joint tenant. A conveyance of any interest in real property by a
7 party to himself and one or more other parties, as joint tenants with right of
8 survivorship, creates in the parties that interest, if the instrument of conveyance
9 expressly provides for a joint tenancy with right of survivorship."

10 Sec. 2. A conveyance of any interest in real property occurring between
11 January 1, 1991, and the effective date of this act by a party to himself and one or more
12 other parties that expressly provides for a joint tenancy with a right of survivorship shall
13 have created such an interest.

14 Sec. 3. This act becomes effective October 1, 1991.