

**58-501. Tenancy in common unless joint tenancy intended, when; exception; joint tenancy provisions.** Real or personal property granted or devised to two or more persons including a grant or devise to a husband and wife shall create in them a tenancy in common with respect to such property unless the language used in such grant or devise makes it clear that a joint tenancy was intended to be created: *Except*, That a grant or devise to executors or trustees, as such, shall create in them a joint tenancy unless the grant or devise expressly declares otherwise. Where joint tenancy is intended as above provided it may be created by:

- (a) Transfer to persons as joint tenants from an owner or a joint owner to himself or herself and one or more persons as joint tenants;
- (b) from tenants in common to themselves as joint tenants; or
- (c) by coparceners in voluntary partition to themselves as joint tenant.

Where a deed, transfer or conveyance grants an estate in joint tenancy in the granting clause thereof and such deed, transfer, or conveyance has a habendum clause inconsistent therewith, the granting clause shall control. When a joint tenant dies, a certified copy of letters testamentary or of administration, or where the estate is not probated or administered a certificate establishing such death issued by the proper federal, state or local official authorized to issue such certificate, or an affidavit of death from some responsible person who knows the facts, shall constitute prima facie evidence of such death and in cases where real property is involved such certificate or affidavit shall be recorded in the office of the register of deeds in the county where the land is situated. The provisions of this act shall apply to all estates in joint tenancy in either real or personal property heretofore or hereafter created and nothing herein contained shall prevent execution, levy and sale of the interest of a judgment debtor in such estates and such sale shall constitute a severance.

**History:** L. 1939, ch. 181, § 1; L. 1955, ch. 271, § 1; June 30.