



SENATE BILL 451: Joint Survivorship Clarifications.

2017-2018 General Assembly

Committee:	Senate Rules and Operations of the Senate	Date:	April 26, 2017
Introduced by:	Sens. Newton, Daniel	Prepared by:	Amy Darden Staff Attorney
Analysis of:	Second Edition		

OVERVIEW: *Senate Bill 451 would replace and clarify the statute on joint tenancy with a right of survivorship.*

CURRENT LAW: Joint tenancy with right of survivorship is a type of ownership of real property where co-owners have a right of survivorship, meaning that if one owner dies, that owner's interest in the property will pass to the surviving owner or owners by operation of law, avoiding probate.

BILL ANALYSIS:

Section 1: would repeal G.S. 41-2, pertaining to joint tenancy with right of survivorship.

Section 2: would enact a new section regarding joint tenancy with right of survivorship and do the following:

- Add definitions of *conveyance* and *severance*.
- Clarify that a conveyance to 2 or more people creates a tenancy in common unless it expresses intent to create a joint tenancy with right of survivorship, using words such as "joint tenants," "joint tenancy," "with right of survivorship," or other similar words.
- Specify that the interests of each joint tenant are deemed equal unless the instrument provides otherwise. Distributions made prior to October 10, 2009 are not subject to this subsection.
- Clarify that a joint tenancy granted to married individuals will be held as a tenancy by the entirety, but they will be treated as a single joint tenant, unless otherwise specified.
- List factors that cause the severance of a joint tenancy with right of survivorship.
- Describe the tenancy in common created after a joint tenancy with right of survivorship is created.
- Specifies occurrences that do not sever a joint tenancy with right of survivorship.
- Establishes that joint tenants with right of survivorship are subject to the Uniform Simultaneous Death Act.

This does not apply to executors or trustees, partnerships, business entities, bank accounts, securities, or life estates.

EFFECTIVE DATE: This act is effective when it becomes law. Nothing in this act shall be deemed to invalidate estate created or severed prior to the effective date of this act.

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578