

Utah Recording and Processing Standards	Number:	Processing - 1
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1. Title

Joint Tenancy – Spousal Designation and Presumption.

2. Standard Procedure

State of Utah County Recorder's Office Policy pursuant to the modification of UCA 57-1-5

2.1 Background: Joint tenancy has been presumed under statute in various fashions from May 5, 1997 to the present day.

Prior to the 2022 legislative session, UCA 57-1-5(1)(a)(i)(A) read: "Beginning on May 5, 1997, an ownership interest in real estate granted to two persons in their own right who are designated as husband and wife in the granting documents is presumed to be a joint tenancy interest with rights of survivorship, unless severed, converted, or expressly declared in the grant to be otherwise."

In 2022, House Bill 276 "Joint Tenancy Presumption" (HB276) passed the State Legislature with the intention of expanding the joint tenancy presumption to all married couples, regardless of the many designations that could be shown in the recorded document (husband and wife, husband and husband etc.). The bill was drafted using the broad term "Spouse" rather than enumerating all potential marital designations.

In 2024, HB37 "Joint Tenancy Presumption Amendments" passed the legislature. That bill amended UCA 57-1-5 so that it now reads:

57-1-5. Creation of joint tenancy presumed -- Tenancy in common -- Severance of joint tenancy -- Tenants by the entirety -- Tenants holding as community property.

(1)(a)(i)(A)Beginning on May 5, 1997, and ending on May 3, 2022, an ownership interest in real estate granted to two persons in their own right who are designated as husband and wife in the granting documents is presumed to be a joint tenancy interest with rights of survivorship, unless severed, converted, or expressly declared in the grant to be otherwise.

(B)Beginning on May 4, 2022, and ending on April 30, 2024, an ownership interest in real estate granted to two persons in their own right who are designated as spouses in the granting documents is presumed to be a joint tenancy interest with rights of survivorship, unless severed, converted, or expressly declared in the grant to be otherwise.

(C)An ownership interest granted on or after May 1, 2024, to two or more persons in their own right is presumed to be a joint tenancy with rights of survivorship, unless severed, converted, or expressly declared in the grant to be otherwise.

2.2 Application of the Law:

2.2.1 Granting Documents Recorded Prior to May 5, 1997:

Joint tenancy is presumed when the granting documents contain the use of words "joint tenancy" or "with rights of survivorship" or "and to the survivor of them" or words of similar import unless severed, converted, or expressly declared in the grant to be otherwise.

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2.2.2 Granting Documents Beginning on May 5, 1997 and Ending on May 3, 2022:

"i. Joint tenancy is presumed when the granting documents contain the use of words "joint tenancy" or "with rights of survivorship" or "and to the survivor of them" or words of similar import unless severed, converted, or expressly declared in the grant to be otherwise - or -"

"ii. an ownership interest in real estate granted to two persons in their own right who are designated as husband and wife (or wife and husband) in the granting documents is presumed to be a joint tenancy interest with rights of survivorship, unless severed, converted, or expressly declared in the grant to be otherwise." The words "husband and wife" or "wife and husband" must be shown in the grantee line of the granting documents for this presumption to apply."

2.2.3 Beginning on May 4, 2022 and ending April 20, 2024:

"i. Joint tenancy is created when the granting documents expressly declare in the grant by containing the use of words "joint tenancy" or "with rights of survivorship" or "and to the survivor of them" or words of similar import unless severed, converted, or expressly declared in the grant to be otherwise. - or -"

"ii. Beginning on May 4, 2022, and ending on April 30, 2024, an ownership interest in real estate granted to two persons in their own right who are designated as spouses in the granting documents is presumed to be a joint tenancy interest with rights of survivorship, unless severed, converted, or expressly declared in the grant to be otherwise." The granting documents could use any combination of descriptions that indicate the two grantees are married to each other or spouses with each other, including but not limited to: spouses, husband and wife, wife and husband, wife and wife, husband and husband. The words "Spouse" or "Spouses" do not need to show in the granting documents if the document otherwise indicates the grantees are married to each other.

2.2.4 Beginning on May 1, 2024 "An ownership interest granted on or after May 1, 2024, to two or more persons in their own right is presumed to be a joint tenancy with rights of survivorship, unless severed, converted, or expressly declared in the grant to be otherwise." If there is no other specific designation of "tenancy in common" showing in the grantee line, two or more persons named in a grantee line of a deed are considered to be joint tenants.

2.3 Joint Tenancy and an Organization Joint tenancy may not be established between an entity or organization and another entity or organization, regardless of the time period. (see UCA 57-1-5 (1)(a)(iv))

3. Approvals

Group	Approval	Date
Utah Association of County Recorders		
Utah Land Title Association Board		

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4. Supporting Information

5. Related and Example Documents

NA

6. References

Utah Code 57-1-5