

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 1147
Second Edition Engrossed 5/2/89
Judiciary III Senate Committee Substitute Adopted 6/4/90

Short Title: Clarify Survivorship Law.

(Public)

Sponsors:

Referred to:

April 10, 1989

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THAT A JOINT TENANCY WITH RIGHT OF SURVIVORSHIP MAY BE CREATED IF THE RIGHT OF SURVIVORSHIP IS EXPRESSLY PROVIDED FOR IN THE INSTRUMENT CREATING THE JOINT TENANCY.

The General Assembly of North Carolina enacts:

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

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

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

1 usually settled between joint merchants and the representatives of their deceased
2 partners. Nothing in this section prevents the creation of a joint tenancy with right of
3 survivorship in real or personal property if the instrument creating the joint tenancy
4 expressly provides for a right of survivorship, and no other document shall be necessary
5 to establish said right of survivorship. Upon conveyance to a third party by less than all
6 of the joint tenants holding property in joint tenancy with right of survivorship, a
7 tenancy in common is created among the third party and the remaining joint tenants."

8 Sec. 1.1. Nothing in this act shall be construed to affect the validity of
9 instruments that provide for a right of survivorship executed prior to the effective date
10 of this act.

11 Sec. 2. This act shall become effective January 1, 1991.