

HB3598



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB3598

Introduced 2/28/2007, by Rep. Franco Coladipietro - Sidney H. Mathias

SYNOPSIS AS INTRODUCED:

765 ILCS 1005/1c

from Ch. 76, par. 1c

Amends the Joint Tenancy Act. Provides that if the beneficial interest in a revocable trust is to be held as tenants by the entirety, the estate created shall be deemed to be in tenancy by the entirety.

LRB095 09889 AJO 30100 b

A BILL FOR

1 AN ACT concerning property.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Joint Tenancy Act is amended by changing
5 Section 1c as follows:

6 (765 ILCS 1005/1c) (from Ch. 76, par. 1c)

7 Sec. 1c. Whenever a devise, conveyance, assignment, or
8 other transfer of property, including a beneficial interest in
9 a land trust or a beneficial interest in a revocable trust,
10 maintained or intended for maintenance as a homestead by both
11 husband and wife together during coverture shall be made and
12 the instrument of devise, conveyance, assignment, or transfer
13 expressly declares that the devise or conveyance is made to
14 tenants by the entirety, or if the beneficial interest in a
15 land trust is to be held as tenants by the entirety, or if the
16 beneficial interest in a revocable trust is to be held as
17 tenants by the entirety, or if husband holds the beneficial
18 interest in a revocable trust and wife also holds the
19 beneficial interest in a revocable trust and if the beneficial
20 interest in each revocable trust is to be held as tenants by
21 the entirety, the estate created shall be deemed to be in
22 tenancy by the entirety. Subject to the provisions of paragraph
23 (d) of Section 2 and unless otherwise assented to in writing by

1 both tenants by the entirety, the estate in tenancy by the
2 entirety so created shall exist only if, and as long as, the
3 tenants are and remain married to each other, and upon the
4 death of either such tenant the survivor shall retain the
5 entire estate; provided that, upon a judgment of dissolution of
6 marriage or of declaration of invalidity of marriage, the
7 estate shall, by operation of law, become a tenancy in common
8 until and unless the court directs otherwise; provided further
9 that the estate shall, by operation of law, become a joint
10 tenancy upon the creation and maintenance by both spouses
11 together of other property as a homestead. A devise,
12 conveyance, assignment, or other transfer to 2 grantees who are
13 not in fact husband and wife that purports to create an estate
14 by the entirety shall be construed as having created an estate
15 in joint tenancy. An estate in tenancy by the entirety may be
16 created notwithstanding the fact that a grantor is or the
17 grantors are also named as a grantee or the grantees in a deed.
18 No deed, contract for deed, mortgage, or lease of homestead
19 property held in tenancy by the entirety shall be effective
20 unless signed by both tenants. This Section shall not apply to
21 nor operate to change the effect of any devise or conveyance.

22 This amendatory Act of 1995 is declarative of existing law.
23 (Source: P.A. 92-136, eff. 1-1-02.)