

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 1147
Second Edition Engrossed 5/2/89

Short Title: Clarify Survivorship Law.

(Public)

Sponsors: Representatives S. Thompson; Hardaway, Dawkins, Gardner, Fitch, Stamey, and Howard.

Referred to: Judiciary.

April 10, 1989

A BILL TO BE ENTITLED

1 AN ACT TO CLARIFY THAT A JOINT TENANCY WITH RIGHT OF
2 SURVIVORSHIP MAY BE CREATED IF THE RIGHT OF SURVIVORSHIP IS
3 EXPRESSLY PROVIDED FOR IN THE INSTRUMENT CREATING THE JOINT
4 TENANCY.
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6 The General Assembly of North Carolina enacts:

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

8 **"§ 41-2. Survivorship in joint tenancy abolished; proviso as to partnership.**

9 In all estates, real or personal, held in joint tenancy, the part or share of any tenant
10 dying shall not descend or go to the surviving tenant, but shall descend or be vested in
11 the heirs, executors, or administrators, respectively, of the tenant so dying, in the same
12 manner as estates held by tenancy in common: Provided, that estates held in joint
13 tenancy for the purpose of carrying on and promoting trade and commerce, or any
14 useful work or manufacture, established and pursued with a view of profit to the parties
15 therein concerned, are vested in the surviving partner, in order to enable him to settle
16 and adjust the partnership business, or pay off the debts which may have been
17 contracted in pursuit of the joint business; but as soon as the same is effected, the
18 survivor shall account with, and pay, and deliver to the heirs, executors and
19 administrators respectively of such deceased partner all such part, share, and sums of
20 money as he may be entitled to by virtue of the original agreement, if any, or according
21 to his share or part in the joint concern, in the same manner as partnership stock is
22 usually settled between joint merchants and the representatives of their deceased

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

8 Sec. 2. This act is effective upon ratification.