

**Chapter 64.28 RCW
JOINT TENANCIES**

Sections

- 64.28.010 Joint tenancies with right of survivorship authorized—
Methods of creation—Creditors' rights saved.
- 64.28.020 Interest in favor of two or more is interest in common—
Exceptions for joint tenancies, partnerships, trustees,
etc.—Presumption of community property.
- 64.28.030 Bank deposits, choses in action, community property
agreements not affected.
- 64.28.040 Character of joint tenancy interests held by both spouses
or both domestic partners.

RCW 64.28.010 Joint tenancies with right of survivorship authorized—Methods of creation—Creditors' rights saved. Whereas joint tenancy with right of survivorship permits property to pass to the survivor without the cost or delay of probate proceedings, there shall be a form of co-ownership of property, real and personal, known as joint tenancy. A joint tenancy shall have the incidents of survivorship and severability as at common law, including the unilateral right of each tenant to sever the joint tenancy. Joint tenancy shall be created only by written instrument, which instrument shall expressly declare the interest created to be a joint tenancy. It may be created by a single agreement, transfer, deed, will, or other instrument of conveyance, or by agreement, transfer, deed or other instrument from a sole owner to himself or herself and others, or from tenants in common or joint tenants to themselves or some of them, or to themselves or any of them and others, or from both spouses or both domestic partners, when holding title as community property, or otherwise, to themselves or to themselves and others, or to one of them and to another or others, or when granted or devised to executors or trustees as joint tenants: PROVIDED, That such transfer shall not derogate from the rights of creditors. [2008 c 6 § 625; 1993 c 19 § 1; 1963 ex.s. c 16 § 1; 1961 c 2 § 1 (Initiative Measure No. 208, approved November 8, 1960).]

Part headings not law—Severability—2008 c 6: See RCW 26.60.900 and 26.60.901.

RCW 64.28.020 Interest in favor of two or more is interest in common—Exceptions for joint tenancies, partnerships, trustees, etc.—Presumption of community property. (1) Every interest created in favor of two or more persons in their own right is an interest in common, unless acquired by them in partnership, for partnership purposes, or unless declared in its creation to be a joint tenancy, as provided in RCW 64.28.010, or unless acquired by executors or trustees.

(2) Interests in common held in the names of both spouses or both domestic partners, whether or not in conjunction with others, are presumed to be their community property.

(3) Subsection (2) of this section applies as of June 9, 1988, to all existing or subsequently created interests in common. [2008 c 6 §

626; 1988 c 29 § 10; 1961 c 2 § 2 (Initiative Measure No. 208, approved November 8, 1960).]

Part headings not law—Severability—2008 c 6: See RCW 26.60.900 and 26.60.901.

RCW 64.28.030 Bank deposits, choses in action, community property agreements not affected. The provisions of this chapter shall not restrict the creation of a joint tenancy in a bank deposit or in other choses in action as heretofore or hereafter provided by law, nor restrict the power of both spouses or both domestic partners to make agreements as provided in RCW 26.16.120. [2008 c 6 § 627; 1961 c 2 § 3 (Initiative Measure No. 208, approved November 8, 1960).]

Part headings not law—Severability—2008 c 6: See RCW 26.60.900 and 26.60.901.

RCW 64.28.040 Character of joint tenancy interests held by both spouses or both domestic partners. (1) Joint tenancy interests held in the names of both spouses or both domestic partners, whether or not in conjunction with others, are presumed to be their community property, the same as other property held in the name of both spouses or both domestic partners. Any such interest passes to the survivor of the spouse or survivor of the domestic partner as provided for property held in joint tenancy, but in all other respects the interest is treated as community property.

(2) Either person in a marriage or either person in a state registered domestic partnership, or both, may sever a joint tenancy. When a joint tenancy is severed, the property, or proceeds of the property, shall be presumed to be their community property, whether it is held in the name of either spouse, or both, or in the name of either domestic partner, or both.

(3) This section applies as of January 1, 1985, to all existing or subsequently created joint tenancies. [2008 c 6 § 628; 1993 c 19 § 2; 1985 c 10 § 2. Prior: 1984 c 149 § 174.]

Part headings not law—Severability—2008 c 6: See RCW 26.60.900 and 26.60.901.

Purpose—1985 c 10: "The purpose of this act is to make technical corrections to chapter 149, Laws of 1984, and to ensure that the changes made in that chapter meet the constitutional requirements of Article II, section 19 of the state Constitution." [1985 c 10 § 1.]

Severability—1985 c 10: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1985 c 10 § 3.]

Short title—Application—1985 c 30: See RCW 11.02.900 and 11.02.901.

Severability—Effective dates—1984 c 149: See notes following RCW 11.02.005.