

Senate Bill 28

By: Senators Seabaugh of the 28th, Ligon, Jr. of the 3rd, Stone of the 23rd and Rogers of the 21st

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 6 of Title 44 of the Official Code of Georgia Annotated, relating to
2 estates, so as to provide for a tenancy in the entirety; to provide for exceptions; to provide
3 for related matters; to repeal conflicting laws; and for other purposes.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

5 SECTION 1.

6 Chapter 6 of Title 44 of the Official Code of Georgia Annotated, relating to estates, is
7 amended by adding a new article to read as follows:

8 "ARTICLE 10

9 44-6-220.

10 (a) On and after July 1, 2011, whenever a devise, conveyance, assignment, or other
11 transfer of real property to both husband and wife together shall be made and the
12 instrument of devise, conveyance, assignment, or transfer expressly declares that the devise
13 or conveyance is made to tenants by the entirety, the estate created shall be deemed to be
14 in tenancy by the entirety. Unless otherwise assented to in writing by both tenants by the
15 entirety, the estate in tenancy by the entirety so created shall exist only if, and as long as,
16 the tenants are and remain married to each other and, upon the death of either such tenant,
17 the survivor shall retain the entire estate. Upon a judgment of dissolution of marriage or
18 of declaration of invalidity of marriage, the estate shall, by operation of law, become a joint
19 tenancy with right of survivorship until and unless the court directs otherwise. A devise,
20 conveyance, assignment, or other transfer to two grantees who are not in fact husband and
21 wife that purports to create an estate by the entirety shall be construed as having created
22 an estate in joint tenancy. An estate in tenancy by the entirety may be created
23 notwithstanding the fact that a grantor is or the grantors are also named as a grantee or the
24 grantees in a deed. No deed, contract for deed, mortgage, or lease of real property held in

25 tenancy by the entirety shall be effective unless signed by both tenants. This Code section
26 shall not apply to nor operate to change the effect of any devise or conveyance that became
27 effective before July 1, 2011.

28 (b) This Code section shall not be construed to repeal, modify, or limit in any way either
29 Code Section 14-5-8, relative to joint tenancy of shares and securities of corporations, or
30 Article 8 of Chapter 1 of Title 7, relative to multiple-party accounts in financial institutions,
31 or any other law relative to multiple-party accounts in financial institutions. This Code
32 section shall not apply to any document, transaction, or right to which Code Section 14-5-8
33 applies or to multiple-party deposit accounts in any financial institution.

34 (c) Any married person owning property or any interest therein who desires to convert
35 such person's interest into a tenancy in the entirety with such person's spouse may do so by
36 direct conveyance to such spouse by an instrument of conveyance which shall provide that
37 it is the grantor's intent to create a tenancy in the entirety in and to the entire interest in the
38 property previously held by the grantor.

39 (d) The interest of a debtor spouse in property held as tenants in the entirety shall not be
40 subject to seizure or execution by a creditor of such debtor spouse without the written
41 consent of the nondebtor spouse.

42 (e) Where property is held by a husband and wife as tenants in the entirety, either spouse
43 may by direct conveyance of such spouse's interest in the property vest the other spouse
44 with title to the property in fee simple.

45 (f) Where property is held by a husband and wife as tenants in the entirety,
46 notwithstanding the legal meaning of such term and subsections (d) and (g) of this Code
47 section, such tenancy shall not protect the property held by tenants in the entirety from any
48 judgment or levy for alimony or child support.

49 (g) Except as provided in this Code section, neither spouse may sever, alienate, or
50 otherwise affect their interest in the tenancy in the entirety during the marriage or upon
51 separation without the written consent of both spouses."

52 **SECTION 2.**

53 All laws and parts of laws in conflict with this Act are repealed.