

House Bill 99 (COMMITTEE SUBSTITUTE)

By: Representatives Lumsden of the 12th, Caldwell of the 131st, Willard of the 51st, Powell of the 171st, Quick of the 117th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 8 of Chapter 6 of Title 44 of the Official Code of Georgia Annotated,
2 relating to joint tenancy with survivorship, so as to provide a procedure for tenancy in
3 common when joint tenants divorce or have their marriage annulled, under certain
4 circumstances; to provide for related matters; to repeal conflicting laws; and for other
5 purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Article 8 of Chapter 6 of Title 44 of the Official Code of Georgia Annotated, relating to joint
9 tenancy with survivorship, is amended by revising Code Section 44-6-190, relating to
10 creating joint tenancy with right of survivorship and severance, as follows:

11 "44-6-190.

12 (a)(1) Deeds and other instruments of title, including any instrument in which one person
13 conveys to himself or herself and one or more other persons, any instrument in which two
14 or more persons convey to themselves or to themselves and another or others, and wills,
15 taking effect after January 1, 1977, may create a joint interest with survivorship in two
16 or more persons.

17 (2) Any instrument of title in favor of two or more persons shall be construed to create
18 interests in common without survivorship between or among the owners unless the
19 instrument expressly refers to the takers as 'joint tenants,' 'joint tenants and not as tenants
20 in common,' or 'joint tenants with survivorship' or as taking 'jointly with survivorship.'

21 (3) Any instrument of title using one of the forms of expression referred to in ~~the~~
22 ~~preceding sentence~~ paragraph (2) of this subsection or language essentially the same as
23 one of these forms of expression shall create a joint tenancy estate or interest that may be
24 severed as to the interest of any owner by the recording of an instrument which results
25 in his or her lifetime transfer of all or a part of his or her interest; provided, however, that,

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26 if all persons owning joint tenant interests in a property join in the same recorded lifetime
 27 transfer, no severance shall occur.

28 (4) Unless the joint tenancy with the right of survivorship is otherwise disposed of in a
 29 final order of divorce or annulment, if either party to an instrument of title creating a joint
 30 tenancy with the right of survivorship files an affidavit in the real property records
 31 maintained by the clerk of superior court of the county in which the real property is
 32 located averring that the parties have been lawfully divorced or their marriage has been
 33 annulled and attaches a copy of the final order of divorce or annulment and a legal
 34 description of the property, the party's interests shall be converted into tenants in
 35 common.

36 (b) Neither this Code section nor Code Section 44-6-120 shall be:

37 (1) Be construed to repeal, modify, or limit in any way either:

38 (A) Code Section 14-5-8, relative to joint tenancy of shares and securities of
 39 corporations; or

40 (B) Article 8 of Chapter 1 of Title 7, relative to multiple-party accounts in financial
 41 institutions, or any other law relative to multiple-party accounts in financial institutions;

42 Neither this Code section nor Code Section 44-6-120 shall apply; or

43 (2) Apply to any document, transaction, or right to which Code Section 14-5-8 applies
 44 or to multiple-party deposit accounts in any financial institution."

45 **SECTION 2.**

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