



## Ohio Revised Code

### Section 5302.20 Survivorship tenancy.

Effective: March 11, 1996

Legislation: House Bill 378 - 121st General Assembly

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(A) Except as provided in section 5302.21 of the Revised Code, if any interest in real property is conveyed or devised to two or more persons for their joint lives and then to the survivor or survivors of them, those persons hold title as survivorship tenants, and the joint interest created is a survivorship tenancy. Any deed or will containing language that shows a clear intent to create a survivorship tenancy shall be liberally construed to do so. The use of the word "or" between the names of two or more grantees or devisees does not by itself create a survivorship tenancy but shall be construed and interpreted as if the word "and" had been used between the names.

(B) If two or more persons hold an interest in the title to real property as survivorship tenants, each survivorship tenant holds an equal share of the title during their joint lives unless otherwise provided in the instrument creating the survivorship tenancy. Upon the death of any of them, the title of the decedent vests proportionately in the surviving tenants as survivorship tenants. This is the case until only one survivorship tenant remains alive, at which time the survivor is fully vested with title to the real property as the sole title holder. If the last two or more survivorship tenants die under such circumstances that the survivor cannot be determined, title passes as if those last survivors had been tenants in common.

(C) A survivorship tenancy has the following characteristics or ramifications:

(1) Unless otherwise provided in the instrument creating the survivorship tenancy, each of the survivorship tenants has an equal right to share in the use, occupancy, and profits, and each of the survivorship tenants is subject to a proportionate share of the costs related to the ownership and use of the real property subject to the survivorship tenancy.

(2) A conveyance from all of the survivorship tenants to any other person or from all but one of the survivorship tenants to the remaining survivorship tenant terminates the survivorship tenancy and vests title in the grantee. A conveyance from any survivorship tenant, or from any number of survivorship tenants that is from less than all of them, to a person who is not a survivorship tenant



vests the title of the grantor or grantors in the grantee, conditioned on the survivorship of the grantor or grantors of the conveyance, and does not alter the interest in the title of any of the other survivorship tenants who do not join in the conveyance.

(3) A fee simple title, leasehold interest, or land contract vendee's interest in real property or any fractional interest in any of these interests may be subjected to a survivorship tenancy.

(4) A creditor of a survivorship tenant may enforce a lien against the interest of one or more survivorship tenants by an action to marshal liens against the interest of the debtor or debtors. Every person with an interest in or lien against the interest of the debtor or debtors shall be made a party to the action. Upon a determination by the court that a party or cross-claimant has a valid lien against the interest of a survivorship tenant, the title to the real property ceases to be a survivorship tenancy and becomes a tenancy in common. Each tenant in common of that nature then holds an undivided share in the title. The interest of each tenant in common of that nature shall be equal unless otherwise provided in the instrument creating the survivorship tenancy. The court then may order the sale of the fractional interest of the lien debtor or debtors as on execution, and the proceeds of the sale shall be applied to pay the lien creditors in the order of their priority.

(5) If the entire title to a parcel of real property is held by two survivorship tenants who are married to each other and the marriage is terminated by divorce, annulment, or dissolution of marriage, the title, except as provided in this division, immediately ceases to be a survivorship tenancy and becomes a tenancy in common. Each tenant in common of that nature holds an undivided interest in common in the title to the real property, unless the judgment of divorce, annulment, or dissolution of marriage expressly states that the survivorship tenancy shall continue after termination of the marriage. The interest of each tenant in common of that nature shall be equal unless otherwise provided in the instrument creating the survivorship tenancy or in the judgment of divorce, annulment, or dissolution of marriage.

If a survivorship tenancy includes one or more survivorship tenants in addition to a husband and wife whose marriage is terminated by divorce, annulment, or dissolution of marriage, the survivorship tenancy is not affected by the divorce, annulment, or dissolution of marriage unless the court alters the interest of the survivorship tenants whose marriage has been terminated.