

# HOUSE BILL REPORT

## HB 2538

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*As Passed House  
February 13, 1992*

**Title:** An act relating to joint tenancy.

**Brief Description:** Altering the provisions concerning joint tenancy.

**Sponsor(s):** Representatives Ludwig, Padden, Appelwick and Paris.

**Brief History:**

Reported by House Committee on:  
Judiciary, February 4, 1992, DP;  
Passed House, February 13, 1992, 95-1.

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**HOUSE COMMITTEE ON  
JUDICIARY**

**Majority Report:** *Do pass.* Signed by 17 members:  
Representatives Appelwick, Chair; Ludwig, Vice Chair;  
Padden, Ranking Minority Member; Paris, Assistant Ranking  
Minority Member; Belcher; Broback; Forner; Hargrove; Inslee;  
Locke; H. Myers; Riley; Scott; D. Sommers; Tate; Vance; and  
Wineberry.

**Staff:** Bill Perry (786-7123).

**Background:** A "joint tenancy" is a form of property ownership in which two or more persons jointly own something. Each joint tenant has the same undivided interest in the whole of the jointly owned property. Joint tenancies may arise in any number of ways. Sometimes they arise incident to a marital community. A joint tenancy held in the names of a husband and wife is presumed to be community property.

Case law in Washington indicates that with respect to separate, i.e. non-community, property, a joint tenancy is severable at will by any tenant. Severance of a joint tenancy may allow significant federal estate tax savings. There is some concern that current joint tenancy statutes could be interpreted to deny the right of unilateral severance of a community property joint tenancy.

**Summary of Bill:** Any joint tenancy, including a community property joint tenancy, may be severed at will by any tenant. Property interests resulting from the severance of a joint tenancy held by a husband and wife are presumed to be community property as well.

**Fiscal Note:** Not requested.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** The bill will clear up an uncertainty and insure that Washington citizens can take full advantage of available exemptions under federal estate tax laws.

**Testimony Against:** None.

**Witnesses:** Noreen Nearn, Washington State Bar Association (in favor).