

SENATE BILL REPORT

HB 2538

AS REPORTED BY COMMITTEE ON LAW & JUSTICE, FEBRUARY 27, 1992

Brief Description: Altering the provisions concerning joint tenancy.

SPONSORS: Representatives Ludwig, Padden, Appelwick and Paris

HOUSE COMMITTEE ON JUDICIARY

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass.

Signed by Senators Nelson, Chairman; Thorsness, Vice Chairman; Erwin, Hayner, M. Kreidler, Madsen, Newhouse, Rasmussen, and A. Smith.

Staff: Dick Armstrong (786-7430)

Hearing Dates: February 26, 1992; February 27, 1992

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. noncommunity, 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:

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.

Appropriation: none

Revenue: none

Fiscal Note: none requested

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

TESTIFIED: Noreen Nearn, WA State Bar Assn. (pro)