

SENATE BILL REPORT

SB 5067

AS PASSED SENATE, FEBRUARY 17, 1993

Brief Description: Altering the provisions concerning joint tenancy.

SPONSORS: Senators A. Smith, McCaslin and Nelson

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass.

Signed by Senators A. Smith, Chairman; Quigley, Vice Chairman; Hargrove, McCaslin, Nelson, Niemi, Rinehart, Roach, and Spanel.

Staff: Dick Armstrong (786-7460)

Hearing Dates: January 19, 1993; January 27, 1993

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 community property 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:

This bill will codify in statute what many attorneys believe is the present status of the law. It will help citizens from incurring unnecessary federal estate taxes due to poor estate planning.

TESTIMONY AGAINST: None

TESTIFIED: Noreen Nearn, WSBA (pro)