

Utah Recording and Processing Standards	<b>Number:</b>	Processing - 6
	<b>Version:</b>	1
	<b>Effective:</b>	
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## 1. Title

Joint Tenancy – Spousal Designation and Presumption.

## 2. Standard Procedure

State of Utah County Recorder’s Office Policy pursuant to the modification of UCA 57-1-5

**2.1 Background:** Prior to the 2022 legislative session, UCA 57-1-5(1)(a)(i)(A) read:

“Beginning on May 5, 1997, an ownership interest in real estate granted to two persons in their own right who are designated as husband and wife in the granting documents is presumed to be a joint tenancy interest with rights of survivorship, unless severed, converted, or expressly declared in the grant to be otherwise.”

In 2022, House Bill 276 “Joint Tenancy Presumption” (HB276) was presented to the State Legislature with the intention of expanding the joint tenancy presumption to all married couples, regardless of the many vesting designations that could be shown in the recorded document (husband and wife, husband and husband etc.). In the legislature’s public committee meetings regarding the bill, the varied possible combinations of marriage were discussed. The bill was purposefully drafted to use the broad term “Spouse”, and their intention was to not try to enumerate the multiple possible combinations of possible spousal designation.

HB276 amended UCA 57-1-5 so that it now reads:

(1)

(a)

(i)

(A) Beginning on May 5, 1997 and ending on May 3, 2022, an ownership interest in real estate granted to two persons in their own right who are designated as husband and wife in the granting documents is presumed to be a joint tenancy interest with rights of survivorship, unless severed, converted, or expressly declared in the grant to be otherwise.

(B) Beginning on May 4, 2022, an ownership interest in real estate granted to two persons in their own right who are designated as spouses in the granting documents is presumed to be a joint tenancy interest with rights of survivorship, unless severed, converted, or expressly declared in the grant to be otherwise.

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## **2.2 Application of the New Law:**

### **2.2.1 Granting Documents Recorded Prior to May 5, 1997:**

Joint tenancy is presumed when the granting documents contains the use of words "joint tenancy" or "with rights of survivorship" or "and to the survivor of them" or words of similar import.

### **2.2.2 Granting Documents Beginning on May 5, 1997 and Ending on May 3, 2022:**

- i. Joint tenancy is presumed when the granting documents contain the use of words "joint tenancy" or "with rights of survivorship" or "and to the survivor of them" or words of similar import - or –
- ii. an ownership interest in real estate granted to two persons in their own right who are designated as husband and wife (or wife and husband) in the granting documents is presumed to be a joint tenancy interest with rights of survivorship, unless severed, converted, or expressly declared in the grant to be otherwise. The words husband and wife or wife and husband must be shown in the grantee line of the granting documents for this presumption to apply.

### **2.2.3 Beginning on May 4, 2022:**

- i. Joint tenancy is created when the granting documents expressly declare in the grant by containing the use of words "joint tenancy" or "with rights of survivorship" or "and to the survivor of them" or words of similar import - or -
- ii. Beginning on May 4, 2022, an ownership interest in real estate granted to two persons in their own right who are designated as spouses in the granting documents is presumed to be a joint tenancy interest with rights of survivorship, unless severed, converted, or expressly declared in the grant to be otherwise. The granting documents could use any combination of descriptions that indicate the two grantees are married to each other or spouses with each other, including but not limited to for example : spouses, husband and wife, wife and husband, wife and wife, husband and husband. The words “Spouse” or “Spouses” do not need to show in the granting documents if the document otherwise indicates the grantees are married to each other.

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### 3. Approvals

<b>Group</b>	<b>Approval</b>	<b>Date</b>
Utah Association of County Recorders		
Utah Land Title Association Board	15-0	09-18-23

### 4. Supporting Information

### 5. Related and Example Documents

NA

### 6. References

Utah Code 57-1-5