

# MAINE STATE LEGISLATURE

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# 125th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2011

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Legislative Document

No. 10

S.P. 25

In Senate, January 5, 2011

### An Act To Clarify the Method of Creating or Severing Joint Tenancy

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Reference to the Committee on Judiciary suggested and ordered printed.

*Joseph G. Carleton Jr.*

JOSEPH G. CARLETON, JR.  
Secretary of the Senate

Presented by Senator HASTINGS of Oxford.  
Cosponsored by Representative CROCKETT of Bethel and  
Senator: HOBBS of York, Representative: MOULTON of York.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 33 MRSA §159**, as amended by PL 1973, c. 788, §164, is further amended  
3 to read:

4 **§159. Conveyances to 2 or more persons**

5 Conveyances not in mortgage and devises of land to 2 or more persons create estates  
6 in common, unless otherwise expressed. Deeds in which 2 or more grantees anywhere in  
7 the conveyances are named as joint tenants ~~shall~~ or named as having the right of  
8 survivorship or that otherwise indicate anywhere in the conveyances by appropriate  
9 language the intent to create a joint tenancy between such grantees must be construed as  
10 vesting an estate in fee simple in such grantees with right of survivorship. Deeds in  
11 which the grantor is named as a grantee or as a grantee with another or others must be  
12 construed as vesting an estate in fee simple in such grantee or grantees including the  
13 grantor, unless otherwise expressed.

14 A conveyance of real property by the owner ~~thereof~~ of the real property to himself the  
15 owner and another or others, or by the owners ~~thereof~~ of the real property to themselves  
16 the owners or to ~~themselves~~ the owners and another or others, as joint tenants or with the  
17 right of survivorship, or ~~which that~~ otherwise indicates anywhere in the conveyance by  
18 appropriate language the intent to create a joint tenancy between such owner or owners  
19 and such other or others or between ~~themselves~~ the owners by ~~such~~ the conveyance, ~~shall~~  
20 create including language such as "as joint tenants," "in joint tenancy," "as joint tenants  
21 with rights of survivorship," "with rights of survivorship," "to them and to the survivor of  
22 them," "to them and their assigns and to the survivor and the heirs and assigns of the  
23 survivor forever" or "as tenants by the entirety," creates an estate in joint tenancy in the  
24 property so conveyed between all of the grantees, including the grantor. Estates in joint  
25 tenancy so created ~~shall~~ have and possess all of the attributes and incidents of estates in  
26 joint tenancy created or existing at common law and the rights and liabilities of the  
27 tenants in estates in joint tenancy so created ~~shall be~~ are the same as in estates in joint  
28 tenancy created or existing at common law.

29 A conveyance of real property by an owner or owners of the real property holding in  
30 joint tenancy to the owner or to the owner and another or others, or to the owners or to the  
31 owners and another or others, as tenants in common, or that otherwise indicates anywhere  
32 in the conveyance by appropriate language the intent to create a tenancy in common or  
33 the intent to sever the joint tenancy between the owner or owners and such other or others  
34 or between the owners by the conveyance, or without expression of the tenancy created or  
35 without other expression of joint tenancy or right of survivorship, creates an estate in  
36 common in the property so conveyed between all of the grantees, including the grantor, or  
37 between the sole grantee and the other owner or owners.

38 **SUMMARY**

39 This bill revises the joint tenancy statute to provide that the intent to create a joint  
40 tenancy may be stated by appropriate language anywhere in a deed. The bill also  
41 provides that a deed to an owner or an owner and another or others is effective and not a

1 nullity. It also provides specific examples of deed language appropriate to create a joint  
2 tenancy and provides that a joint tenancy may be severed by a deed to an owner or to an  
3 owner and another or others.