

JAN 20 2012

A BILL FOR AN ACT

RELATING TO TRANSFER OF PROPERTY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. Section 509-2, Hawaii Revised Statutes, is amended to read as follows:

"§509-2 Creation of joint tenancy, tenancy by the entirety, and tenancy in common. (a) Land, or any interest therein, or any other type of property or property rights or interests or interest therein, may be conveyed by a person to oneself and another or others as joint tenants, or by a person to oneself and one's spouse or reciprocal beneficiary, or by spouses to themselves, or by reciprocal beneficiaries to themselves, as tenants by the entirety, or by joint tenants to themselves and another or others as joint tenants, or tenants in common to themselves or to themselves and another or others as joint tenants, or by tenants by the entirety to themselves or themselves and another or others as joint tenants or as tenants in common, or by one tenant by the entirety to the tenant's spouse or reciprocal beneficiary of all of the tenant's interest or interests, without the necessity of conveying through a third party, and each such instrument shall be construed as validly



1 creating a joint tenancy, tenancy by the entirety, tenancy in
2 common, or single ownership, as the case may be, if the tenor of
3 the instrument manifestly indicates such intention.

4 (b) Property that is held in tenancy by the entirety by
5 persons who are spouses or reciprocal beneficiaries may be
6 transferred to a joint revocable living trust, a joint
7 irrevocable living trust, or to the separate revocable or
8 irrevocable trusts of either spouse or reciprocal beneficiary.
9 The transferred property or any part or accumulation of the
10 transferred property that was held in tenancy by the entirety at
11 the time of transfer shall continue to be treated as though it
12 is held in tenancy by the entirety and shall be subject to all
13 applicable law while held in trust during the lifetime of both
14 spouses or reciprocal beneficiaries except where the provisions
15 of the trust instrument expressly provide to the contrary. In
16 all respects other than the type of ownership, the property
17 shall be subject to the terms of the trust instrument.

18 In any action by a creditor of either or both spouses or
19 reciprocal beneficiaries to recover a debt from a trust subject
20 to this subsection, the sole remedy available upon avoidance of
21 the transfer with respect to trust property treated as though it
22 is held in tenancy by the entirety shall be an order directing



1 the trustee to transfer the relevant property to both spouses or
2 reciprocal beneficiaries as tenants by the entirety.

3 ~~[(b)]~~ (c) For the purposes of this chapter:

4 "Spouse" includes a partner in a civil union in accordance
5 with section 572B-11.

6 "Reciprocal beneficiary" means an adult who is a party to a
7 registered reciprocal beneficiary relationship in accordance
8 with chapter 572C, and has a valid certificate of reciprocal
9 beneficiary relationship that has not been terminated."

10 SECTION 2. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

12 SECTION 3. This Act shall take effect upon its approval.

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INTRODUCED BY:



Report Title:

Conveyance of Property

Description:

Specifies that property held in tenancy by the entirety shall continue to be treated as such after transfer to a specified trust except where specifically provided otherwise by the trust instrument; limits the remedy available to creditors against transferred property.

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