

IC 32-17-3

Chapter 3. Tenancy

IC 32-17-3-1

Husband and wife purchase or lease of real estate; rights of survivor

Sec. 1. (a) This section applies to a written contract in which a husband and wife:

- (1) purchase real estate; or
- (2) lease real estate with an option to purchase.

(b) Except as provided in subsection (d), a contract described in subsection (a) creates an estate by the entireties in the husband and wife. The interest of neither party is severable during the marriage.

(c) Upon the death of either party to the marriage, the survivor is considered to have owned the whole of all rights under the contract from its inception.

(d) If:

- (1) a contract described in subsection (a) expressly creates a tenancy in common; or
- (2) it appears from the tenor of a contract described in subsection (a) that the contract was intended to create a tenancy in common;

the contract shall be construed to create a tenancy in common.

As added by P.L.2-2002, SEC.2.

IC 32-17-3-2

Divorce

Sec. 2. If a husband and wife are divorced while a contract described in section 1(a) of this chapter is in effect, the husband and wife own the interest in the contract and the equity created by the contract in equal shares.

As added by P.L.2-2002, SEC.2.

IC 32-17-3-3

Title bond or contract for sale of land; survivorship

Sec. 3. If:

- (1) a husband and wife execute a title bond or contract for the conveyance of real estate owned by them as tenants by the entireties; and
- (2) one (1) of the spouses dies:
 - (A) during the continuance of the marriage; and
 - (B) before the whole of the agreed purchase price has been paid;

the interest of the deceased spouse in the unpaid part of the purchase price passes to the surviving spouse in the same right as the surviving spouse's rights of survivorship in real estate held as tenants by the entireties.

As added by P.L.2-2002, SEC.2.

IC 32-17-3-4

Husband and wife; joint deed of conveyance

Sec. 4. (a) A joint deed of conveyance by a husband and wife is sufficient to convey and pass any interest described in the deed of either or both of them in land held by them as:

- (1) tenants in common;
- (2) joint tenants; or
- (3) tenants by the entireties.

(b) An executed and recorded power of attorney by one (1) spouse to the other spouse authorizing the conveyance by the attorney in fact of any interest owned:

- (1) individually by the grantor (as defined in IC 32-17-1-1) of the power of attorney; or
- (2) with the grantor's spouse;

enables the attorney in fact through the exercise of the power of attorney to effectively convey the interest in land by individually making a deed of conveyance.

As added by P.L.2-2002, SEC.2.