

## Tenants by the Entirety - protection for homestead real estate

(765 ILCS 1005/1c) (from Ch. 76, par. 1c)

Sec. 1c. Whenever a devise, conveyance, assignment, or other transfer of property, including a beneficial interest in a land trust, maintained or intended for maintenance as a homestead by both husband and wife together during coverture shall be made and the instrument of devise, conveyance, assignment, or transfer expressly declares that the devise or conveyance is made to tenants by the entirety, or if the beneficial interest in a land trust is to be held as tenants by the entirety, the estate created shall be deemed to be in tenancy by the entirety. Subject to the provisions of paragraph (d) of Section 2 and unless otherwise assented to in writing by both tenants by the entirety, the estate in tenancy by the entirety so created shall exist only if, and as long as, the tenants are and remain married to each other, and upon the death of either such tenant the survivor shall retain the entire estate; provided that, upon a judgment of dissolution of marriage or of declaration of invalidity of marriage, the estate shall, by operation of law, become a tenancy in common until and unless the court directs otherwise; provided further that the estate shall, by operation of law, become a joint tenancy upon the creation and maintenance by both spouses together of other property as a homestead. A devise, conveyance, assignment, or other transfer to 2 grantees who are not in fact husband and wife that purports to create an estate by the entirety shall be construed as having created an estate in joint tenancy. An estate in tenancy by the entirety may be created notwithstanding the fact that a grantor is or the grantors are also named as a grantee or the grantees in a deed. No deed, contract for deed, mortgage, or lease of homestead property held in tenancy by the entirety shall be effective unless signed by both tenants. This Section shall not apply to nor operate to change the effect of any devise or conveyance.

This amendatory Act of 1995 is declarative of existing law.

(Source: P.A. 92-136, eff. 1-1-02.)