**South Carolina General Assembly**

118th Session, 2009-2010

**A266, R341, S382**

**STATUS INFORMATION**

General Bill

Sponsors: Senator Hayes

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Introduced in the Senate on February 3, 2009

Introduced in the House on May 12, 2009

Last Amended on June 15, 2010

Passed by the General Assembly on June 15, 2010

Governor's Action: June 24, 2010, Signed

Summary: Personal property

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 2/3/2009 Senate Introduced and read first time [SJ](file:///h%3A%5CSJ%20Archive%5C2009%5C02-03-09.docx)‑12

 2/3/2009 Senate Referred to Committee on **Judiciary** [SJ](file:///h%3A%5CSJ%20Archive%5C2009%5C02-03-09.docx)‑12

 2/6/2009 Senate Referred to Subcommittee: Malloy (ch), Ford, Massey, S.Martin, Mulvaney

 5/6/2009 Senate Committee report: Favorable with amendment **Judiciary** [SJ](file:///h%3A%5CSJ%20Archive%5C2009%5C05-06-09.docx)‑8

 5/7/2009 Senate Committee Amendment Adopted [SJ](file:///h%3A%5CSJ%20Archive%5C2009%5C05-07-09.docx)‑28

 5/7/2009 Senate Read second time [SJ](file:///h%3A%5CSJ%20Archive%5C2009%5C05-07-09.docx)‑28

 5/8/2009 Scrivener's error corrected

 5/12/2009 Senate Read third time and sent to House [SJ](file:///h%3A%5CSJ%20Archive%5C2009%5C05-12-09.docx)‑11

 5/12/2009 House Introduced and read first time [HJ](file:///h%3A%5CHJ%20Archive%5C2009%5C05-12-09.docx)‑109

 5/12/2009 House Referred to Committee on **Judiciary** [HJ](file:///h%3A%5CHJ%20Archive%5C2009%5C05-12-09.docx)‑109

 3/24/2010 House Committee report: Favorable with amendment **Judiciary** [HJ](file:///h%3A%5CHJ%20Archive%5C2010%5C03-24-10.docx)‑27

 4/15/2010 House Debate adjourned until Tuesday, April 20, 2010 [HJ](file:///h%3A%5CHJ%20Archive%5C2010%5C04-15-10.docx)‑46

 4/20/2010 House Debate adjourned [HJ](file:///h%3A%5CHJ%20Archive%5C2010%5C04-20-10.docx)‑16

 4/20/2010 House Debate adjourned until Wednesday, April 21, 2010 [HJ](file:///h%3A%5CHJ%20Archive%5C2010%5C04-20-10.docx)‑48

 4/21/2010 House Debate adjourned until Thursday, April 22, 2010 [HJ](file:///h%3A%5CHJ%20Archive%5C2010%5C04-21-10.docx)‑14

 4/22/2010 House Debate adjourned until Tuesday, April 27, 2010 [HJ](file:///h%3A%5CHJ%20Archive%5C2010%5C04-22-10.docx)‑17

 4/27/2010 House Debate adjourned until Tuesday, May 5, 2010 [HJ](file:///h%3A%5CHJ%20Archive%5C2010%5C04-27-10.docx)‑36

 5/4/2010 House Debate adjourned [HJ](file:///h%3A%5CHJ%20Archive%5C2010%5C05-04-10.docx)‑46

 5/5/2010 House Amended [HJ](file:///h%3A%5CHJ%20Archive%5C2010%5C05-05-10.docx)‑13

 5/5/2010 House Read second time [HJ](file:///h%3A%5CHJ%20Archive%5C2010%5C05-05-10.docx)‑13

 5/6/2010 House Read third time and returned to Senate with amendments [HJ](file:///h%3A%5CHJ%20Archive%5C2010%5C05-06-10.docx)‑21

 5/11/2010 Senate House amendment amended [SJ](file:///h%3A%5CSJ%20Archive%5C2010%5C05-11-10.docx)‑33

 5/11/2010 Senate Returned to House with amendments [SJ](file:///h%3A%5CSJ%20Archive%5C2010%5C05-11-10.docx)‑33

 5/20/2010 House Non‑concurrence in Senate amendment [HJ](file:///h%3A%5CHJ%20Archive%5C2010%5C05-20-10.docx)‑39

 5/20/2010 House Roll call Yeas‑1 Nays‑96 [HJ](file:///h%3A%5CHJ%20Archive%5C2010%5C05-20-10.docx)‑39

 5/26/2010 Senate Senate insists upon amendment and conference committee appointed Hayes, Malloy, and Massey [SJ](file:///h%3A%5CSJ%20Archive%5C2010%5C05-26-10.docx)‑87

 5/27/2010 House Conference committee appointed Reps. Bannister, Hearn, and Stavrinakis [HJ](file:///h%3A%5CHJ%20Archive%5C2010%5C05-27-10.docx)‑8

 6/3/2010 Senate Conference report received and adopted [SJ](file:///h%3A%5CSJ%20Archive%5C2010%5C06-03-10.docx)‑52

 6/15/2010 House Conference report received and adopted [HJ](file:///h%3A%5CHJ%20Archive%5C2010%5C06-15-10.docx)‑161

 6/15/2010 House Ordered enrolled for ratification [HJ](file:///h%3A%5CHJ%20Archive%5C2010%5C06-15-10.docx)‑164

 6/21/2010 Ratified R 341

 6/24/2010 Signed By Governor

 7/1/2010 Effective date 06/24/10

 7/8/2010 Act No. 266

**VERSIONS OF THIS BILL**

[2/3/2009](file:///p%3A%5Cpprever%5C2009-10%5C382_20090203.docx)

[5/6/2009](file:///p%3A%5Cpprever%5C2009-10%5C382_20090506.docx)

[5/7/2009](file:///p%3A%5Cpprever%5C2009-10%5C382_20090507.docx)

[5/8/2009](file:///p%3A%5Cpprever%5C2009-10%5C382_20090508.docx)

[3/24/2010](file:///p%3A%5Cpprever%5C2009-10%5C382_20100324.docx)

[5/5/2010](file:///p%3A%5Cpprever%5C2009-10%5C382_20100505.docx)

[5/11/2010](file:///p%3A%5Cpprever%5C2009-10%5C382_20100511.docx)

[6/15/2010](file:///p%3A%5Cpprever%5C2009-10%5C382_20100615.docx)

(A266, R341, S382)

**AN ACT TO AMEND SECTION 62-2-804, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE EFFECT OF PROVISION FOR SURVIVORSHIP ON SUCCESSION TO JOINT TENANCY, SO AS TO MAKE SUCH PROVISIONS APPLICABLE TO REAL PROPERTY HELD IN JOINT TENANCY; AND BY ADDING SECTION 62‑2‑805 SO AS TO PROVIDE FOR A PRESUMPTION THAT A DECEDENT AND THE DECEDENT’S SPOUSE HELD TANGIBLE PERSONAL PROPERTY IN A JOINT TENANCY WITH RIGHT OF SURVIVORSHIP, FOR EXCEPTIONS TO THE PRESUMPTION, AND FOR THE STANDARD OF PROOF TO OVERCOME THE PRESUMPTION.**

Be it enacted by the General Assembly of the State of South Carolina:

**Joint tenancy in real property severed**

SECTION 1. Section 62‑2‑804 of the 1976 Code is amended to read:

 “Section 62‑2‑804. When any person is seized or possessed of any real property held in joint tenancy at the time of his death, the joint tenancy is deemed to have been severed by the death of the joint tenant and the real property is distributable as a tenancy in common unless the instrument which creates the joint tenancy in real property, including any instrument in which one person conveys to himself and one or more other persons, or two or more persons convey to themselves, or to themselves and another or others, expressly provides for a right of survivorship, in which case the severance does not occur. While other methods for the creation of a joint tenancy in real property may be utilized, an express provision for a right of survivorship is conclusively considered to have occurred if the will or instrument of conveyance contains the names of the devisees or grantees followed by the words ‘as joint tenants with right of survivorship and not as tenants in common’.”

**Joint tenancy presumed**

SECTION 2. Part 8, Article 2, Title 62 of the 1976 Code is amended by adding:

 “Section 62‑2‑805. (A) For purposes of this article, tangible personal property in the joint possession or control of the decedent and the surviving spouse at the time of the decedent’s death is presumed to be owned by the decedent and the decedent’s spouse in joint tenancy with right of survivorship if ownership is not evidenced otherwise by a certificate of title, bill of sale, or other writing. This presumption does not apply to property:

 (1) acquired by either spouse before marriage;

 (2) acquired by either spouse by gift or inheritance during the marriage;

 (3) used by the decedent spouse in a trade or business in which the surviving spouse has no interest;

 (4) held for another; or

 (5) devised in a written statement or list disposing of tangible personal property pursuant to Section 62‑2‑512.

 (B) The presumption created in this section may be overcome by a preponderance of the evidence demonstrating that ownership was held other than in joint tenancy with right of survivorship.”

**Severability**

SECTION 3. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

**Time effective**

SECTION 4. This act takes effect upon approval by the Governor.

Ratified the 21st day of June, 2010.

Approved the 24th day of June, 2010.

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