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# A BILL FOR AN ACT

RELATING TO TRANSFER OF PROPERTY.

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

1           SECTION 1. Section 509-2, Hawaii Revised Statutes, is  
2 amended to read as follows:  
3           "**§509-2 Creation of joint tenancy, tenancy by the**  
4 **entirety, and tenancy in common.** (a) Land, or any interest  
5 therein, or any other type of property or property rights or  
6 interests or interest therein, may be conveyed by a person to  
7 oneself and another or others as joint tenants, or by a person  
8 to oneself and one's spouse or reciprocal beneficiary, or by  
9 spouses to themselves, or by reciprocal beneficiaries to  
10 themselves, as tenants by the entirety, or by joint tenants to  
11 themselves and another or others as joint tenants, or tenants in  
12 common to themselves or to themselves and another or others as  
13 joint tenants, or by tenants by the entirety to themselves or  
14 themselves and another or others as joint tenants or as tenants  
15 in common, or by one tenant by the entirety to the tenant's  
16 spouse or reciprocal beneficiary of all of the tenant's interest  
17 or interests, without the necessity of conveying through a third  
18 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) Where spouses or reciprocal beneficiaries make a  
5 contribution of property to a joint trust or in equal shares to  
6 their respective separate trusts, each of which is revocable by  
7 either of them, and, at the time of the transfer, such property  
8 or any part thereof or any accumulation thereto was, pursuant to  
9 applicable law, owned by them as tenants by the entirety and  
10 specific reference to this position is made in the vesting  
11 language of the instrument of transfer, then notwithstanding  
12 such contribution and except where a provision of the trust  
13 instrument may expressly provide to the contrary, that property  
14 and any accumulation thereto shall, while held in trust during  
15 the lifetime of both spouses or reciprocal beneficiaries, be  
16 treated as though it were a tenancy by the entirety property to  
17 the extent that, in any action concerning whether a creditor of  
18 either or both spouses or reciprocal beneficiaries may recover  
19 the debt from the trust, the sole remedy available to the  
20 creditor with respect to the trust property that is treated as  
21 though it were tenancy by the entirety property shall be an  
22 order directing the trustee to transfer the property to both



1 spouses or reciprocal beneficiaries as tenants by the entirety,  
2 unless the creditor has a secured interest in the transferred  
3 property before the transfer. Upon entry of a decree granting  
4 divorce or annulment between the spouses or the termination of  
5 the reciprocal beneficiary relationship between the reciprocal  
6 beneficiaries, trust property treated as though it were held in  
7 tenancy by the entirety shall instead be treated as though it  
8 were held in tenancy in common.

9       ~~[-(b)]~~ (c) For the purposes of this chapter~~[- "Reciprocal"]~~  
10 "reciprocal beneficiary" means an adult who is a party to a  
11 registered reciprocal beneficiary relationship in accordance  
12 with chapter 572C, and has a valid certificate of reciprocal  
13 beneficiary relationship that has not been terminated."

14       SECTION 2. Statutory material to be repealed is bracketed  
15 and stricken. New statutory material is underscored.

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



**Report Title:**

Spouse or Reciprocal Beneficiary; Tenancy by the Entirety; Trust

**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. (HB2623 HD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

