

**TENANCY BY THE ENTIRETY STATES
AND QUALIFIED SPOUSAL TRUSTS**

Prepared by Robert K. Kirkland
Updated as of July 23, 2015

	Allow Joint Trusts to Qualify for T by E Creditor Protection?	Must the QST State Statute be Specifically Cited in the Trust or Instrument of Conveyance?	Must the Property Be Held as T by E Property Immediately Prior to Transfer to Joint Trust?	Does State Statute Permit the Joint Trust to be Split Into 2 Separate Shares While Both Spouses Are Living?	Does State Statute Permit the First Deceased Spouse's Trust Share to be Split Into Marital/Non-Marital Shares?
Alaska*...**	No				
Arkansas	No				
Delaware	Yes (12 Del. Code Sec. 3334)	No	Yes	Yes	Uncertain
District of Columbia	No				
Florida	Maybe***				
Hawaii	Yes (Haw. Rev. Stat. Sec. 509-2)	No	No	Yes	Uncertain
Illinois	Yes (765 1LCS 1005-1c****)	No	Not expressly	Yes	No
Indiana**	Yes (IC 30-4-3-35)**	Yes	Not expressly	Yes	Yes
Kentucky**	No				
Maryland	Yes (Md. Est. & Tr. Code Sec. 14-113)	Yes	Yes	Yes	Yes

Massachusetts	No				
Michigan	No				
Mississippi	No				
Missouri	Yes (Mo. Rev. Stat. Sec. 456.950)	No	No	Yes	Yes
New Jersey	No				
New York**	No				
North Carolina**	Yes (N.C. Gen. Stat. Sec. 39-13.7)**	No	Yes	No	Uncertain
Ohio*****	No				
Oklahoma	No				
Oregon**	No				
Pennsylvania	No				
Rhode Island**	No				
Tennessee	Yes (T.C.A. Sec. 35-15-510)	Yes	Yes	Yes	Uncertain
Vermont	No				
Virginia	Yes (Va. Code Sec. 55-20.2)	No	Yes	Yes	Uncertain
Wyoming	Yes (W.S. 4-10-402(c)-(e))	Yes	Yes	Yes	Uncertain

* Alaska is studying the possibility of such a statute.

** This state allows tenancy by the entirety status for real estate only.

*** Florida practitioners disagree as to whether a joint trust may qualify for tenancy by the entirety creditor protection, but there is no specific enabling statute.

**** Illinois allows tenancy by the entirety status for the “homestead” only.

***** Only if created before April 4, 1985.

