

REVENUE: No revenue impact

FISCAL: No fiscal impact

Action: Do Pass
Vote: 5 - 0 - 0
Yeas: Beyer, Kruse, Prozanski, Walker, Burdick
Nays: 0
Exc.: 0
Prepared By: Matt Kalmanson, Counsel
Meeting Dates: 2/22

WHAT THE MEASURE DOES: Clarifies that a conveyance of property to a husband and wife is a “tenancy by the entirety,” unless the conveyance expressly provides otherwise. Gives ORS 93.180 a more coherent structure, without changing the substantive meaning of the statute.

ISSUES DISCUSSED:

- Oregon law of conveyances of property to two or more persons
- Formation of a tenancy by the entirety in a conveyance to a husband and wife
- Potential ambiguities in ORS 93.180 by use of words “as such”
- Intent not to change the substantive law of conveyances

EFFECT OF COMMITTEE AMENDMENT: No amendment.

BACKGROUND: HB 2365 updates ORS 93.180 by changing the structure of the statute and removing potentially ambiguous language. As currently drafted, ORS 93.180 provides that a conveyance to two or more people creates a “tenancy in common,” unless it is to a “husband and wife, as such” or the conveyance expressly references a “right of survivorship.” A “tenancy in common” creates individual property interests that property owners can pass to their heirs. If two property owners have “rights of survivorship,” however, then the property interest automatically passes to the surviving owner. A “tenancy by the entirety” is a conveyance to a husband and wife that, among other things, automatically includes a right of survivorship. HB 2365 changes the structure of the statute by separating out the different types of conveyances into different subsections. In addition, it removes the words “as such,” from the phrase “husband and wife, as such,” to prevent potential ambiguities created by those words. HB 2365 is not intended to make any substantive changes to the law of conveyances.