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Hocker, Hoffner, Paradee, Pettyjohn, Walsh

HOUSE OF REPRESENTATIVES  
152nd GENERAL ASSEMBLY

HOUSE BILL NO. 131

AN ACT TO AMEND TITLE 25 OF THE DELAWARE CODE RELATING TO THE CONVEYANCE OF REAL ESTATE BETWEEN SPOUSES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1           Section 1. Amend § 309, Title 25 of the Delaware Code by making deletions as shown by strike through and  
2     insertions as shown by underline as follows:

3           § 309. Conveyance of real estate between spouses.

4           (a) The following conveyances between spouses of ~~A married man may convey by deed, duly executed and~~  
5     ~~acknowledged, real estate or any interest therein directly to his wife, and a married woman may convey by deed, duly~~  
6     ~~executed and acknowledged, real estate or any interest therein directly to her husband, and every such conveyance of real~~  
7     ~~estate or any interest therein, located in this State, made prior to or on or after December 21, 1965, State shall be valid and~~  
8     ~~effective in law and equity to convey the grantor's title and interest therein and thereto, whether both the grantor and~~  
9     ~~grantee or either, respectively, shall have resided at the time of such conveyance within or without this State, and~~  
10    ~~notwithstanding the wife or the husband, respectively, did not or does not join herein.~~ equity:

11           (1) By either spouse, in any estate or tenancy other than tenancy by the entirety, without the joinder of the  
12    other spouse, to both spouses in any estate or tenancy;

13           (2) By either spouse, in any estate or tenancy other than tenancy by the entirety, without the joinder of the  
14    other spouse, to the other spouse alone;

15           (3) By either spouse, without the joinder of the other spouse, to the other spouse alone of the grantor spouse's  
16    entire interest in any real estate, or interest therein, held in tenancy by the entirety;

17           (4) By both spouses, in any estate or tenancy, to both spouses in any estate or tenancy;

18           (5) By both spouses, in any estate or tenancy, to either spouse alone.

19           (b) ~~This section shall be construed as authorizing a conveyance of an interest in real property:~~

20           ~~(1) By either spouse, in any estate, tenancy or capacity other than tenancy by the entireties, without the joinder~~  
21    ~~of the other spouse, to both spouses in any estate, tenancy or capacity;~~

22           (2) ~~By either spouse, in any estate, tenancy or capacity other than tenancy by the entirety, without the joinder~~  
23 ~~of the other spouse to the other spouse alone;~~

24           (3) ~~By both spouses, in any estate, tenancy or capacity, to both spouses in any estate, tenancy or capacity; and~~

25           (4) ~~By both spouses, in any estate, tenancy or capacity, to either spouse alone.~~

26           (b) Any conveyance authorized by paragraphs (a)(1) or (a)(4) of this section made by the grantor to both spouses,  
27 either as joint tenants with right of survivorship or as tenants by the entirety, shall, if otherwise valid, be as fully effective to  
28 vest either an estate in joint tenancy with right of survivorship or an estate as tenants by the entirety, as the case may be, in  
29 such real estate, in the grantees as if the same had been conveyed by the grantor therein to a third party and by such third  
30 party to said grantees.

31           (c) ~~All conveyance prior to June 29, 1998, and of a type described therein shall be deemed valid ab initio.~~Property  
32 held by the entirety shall not be subject to the claims of a creditor of only one spouse.

33           (d) All conveyances described in subsection (a) of this section made before, on, or after [the effective date of this  
34 Act] shall be deemed valid ab initio.

#### SYNOPSIS

This Act resolves ambiguities in the current law and confirms the ability of a spouse who owns real property as tenant by the entirety, acting alone, to convey that spouse's interest in such real property to both spouses, as tenants by the entirety or otherwise, or to the other spouse.