# Tenancy by the Entirety States

## 2026 State-by-State Chart

Twenty-four states and the District of Columbia recognize tenancy by the entirety, a form of joint ownership reserved for married couples that treats the two spouses as a single legal unit. At its strongest, entireties ownership keeps the property entirely away from a creditor who has a judgment against one spouse alone, because neither spouse owns a share the creditor can take.

A creditor of one spouse gets nothing out of entireties property in Florida or Pennsylvania; New York and Arkansas let the same creditor sell the debtor spouse's interest. Roughly half the recognizing states extend entireties ownership to bank accounts; in the rest, a couple cannot count on it for an account. Half the country, California and Texas included, has no tenancy by the entirety at all.

## What Is Tenancy by the Entirety?

Tenancy by the entirety is joint ownership by a married couple in which each spouse owns the entire property rather than a divisible half. Neither spouse acting alone can defeat the other's right of survivorship. When one spouse dies, the survivor keeps the property automatically. Only married couples can own property this way, though the District of Columbia extends the ownership to registered domestic partners as well.

The creditor protection follows from each spouse owning the entire property. Where tenancy by the entirety holds its traditional form, a judgment against one spouse alone attaches to nothing, because the debtor spouse has no separate share. A couple facing a judgment against the husband alone keeps the house; a judgment against husband and wife together reaches it. The ownership itself ends if the couple divorces.

## Every State That Recognizes Tenancy by the Entirety

Each state that recognizes tenancy by the entirety defines it through its own statutes and court decisions, so what property qualifies and what a separate creditor can still do both change at the state line. The chart names the controlling authority for every state along with the answer to both questions.

On the chart, **Authority** is the statute or decision that supplies the state's rule. **Real Property** and **Personal Property** show what the ownership can cover there. The last column shows what a creditor holding a judgment against one spouse alone can do, taken from the controlling statute or case.

| State | Authority | Real Property | Personal Property | What a Creditor of One Spouse Can Do |
|---|---|---|---|---|
| **Alaska** | Alaska Stat. §§ 34.15.140, 34.15.110(b), 09.38.100 | **Yes** | No | Levy on and sell the debtor spouse's interest, then have the property partitioned or that interest severed |
| **Arkansas** | Ark. Code Ann. §§ 23-47-204, 9-12-317; *Morris v. Solesbee*, 892 S.W.2d 281 (Ark. Ct. App. 1995) | **Yes** | Yes | Execute against the debtor spouse's interest, subject to the other spouse's possession, survivorship, and half the rents and profits |
| **Delaware** | *Widder v. Leeds*, 317 A.2d 32 (Del. Ch. 1974); *Steigler v. Insurance Co. of North America*, 384 A.2d 398 (Del. 1978) | **Yes** | Yes, and intent decides it for an account | Nothing during the joint lives; a judgment against one spouse is an inchoate lien that vests if the debtor spouse survives |

| State | Authority | Real Property | Personal Property | What a Creditor of One Spouse Can Do |
|---|---|---|---|---|
| **District of Columbia** | D.C. Code §§ 42-516, 46-601; *Finley v. Thomas*, 691 A.2d 1163 (D.C. 1997) | **Yes** | Yes | Nothing; entireties property is not subject to execution or levy for the debts of only one cotenant. Both statutes reach registered domestic partners, and debts for necessaries are excepted |
| **Florida** | Fla. Stat. § 655.79; *Beal Bank, SSB v. Almand & Assocs.*, 780 So. 2d 45 (Fla. 2001); *Loumpos v. Bank One*, 423 So. 3d 856 (Fla. 2025) | **Yes** | Yes | Nothing on a judgment against one spouse alone |
| **Hawaii** | Haw. Rev. Stat. § 509-2; *Sawada v. Endo*, 57 Haw. 608, 561 P.2d 1291 (1977) | **Yes** | Yes | Nothing; neither spouse's interest is subject to that spouse's individual creditors during their joint lives |
| **Illinois** | 765 ILCS 1005/1c; 735 ILCS 5/12-112 | **Homestead only** | No | No sale on a judgment against one spouse alone, unless the property was put into entireties with the sole intent to avoid existing debts; income from the property is garnishable |
| **Indiana** | Ind. Code §§ 32-17-3-1, 34-55-10-2(c)(5), (d) | **Yes** | No | Nothing on a debt of one spouse; the exemption does not apply to a debt both spouses are liable for |
| **Kentucky** | Ky. Rev. Stat. § 381.050; *Hoffmann v. Newell*, 249 Ky. 270 (1932) | **Yes, where the deed expressly provides survivorship** | No | Take a lien on and sell the debtor spouse's contingent survivorship interest now; the present possessory interest is out of reach |
| **Maryland** | *Diamond v. Diamond*, 298 Md. 24 (1983); *Watterson v. Edgerly*, 40 Md. App. 230, 388 A.2d 934 (1978) | **Yes** | Yes, where the spouses intended entireties ownership | Nothing; entireties property is not subject to the claims of either spouse's individual creditors |
| **Massachusetts** | Mass. Gen. Laws ch. 184, § 7; ch. 209, § 1 | **Yes** | No | Nothing while the property is the non-debtor spouse's principal residence; other entireties real estate is reachable, and both spouses are liable for necessaries |
| **Michigan** | Mich. Comp. Laws §§ 557.71, 557.151, 600.5451(1)(n); *DeYoung v. Mesler*, 373 Mich. 499, 130 N.W.2d 38 (1964) | **Yes** | Bonds, stock certificates, mortgages, and notes only | Nothing on a judgment against one spouse alone; a debt both spouses owe reaches the property |
| **Mississippi** | Miss. Code Ann. § 89-1-7; *Newton v. Long*, 588 So. 2d 192 (Miss. 1991) | **Yes** | Unsettled | Neither spouse can end the estate alone. Mississippi's appellate courts have not decided what a creditor of one spouse may do |
| **Missouri** | Mo. Rev. Stat. §§ 442.450, 362.470.5; *Hanebrink v. Tower Grove Bank & Trust Co.*, 321 S.W.2d 524 (Mo. Ct. App. 1959) | **Yes** | Yes, and marital deposits are presumed entireties | Nothing on a judgment against one spouse alone, bank accounts included |
| **New Jersey** | N.J. Stat. Ann. §§ 46:3-17.2, 46:3-17.4; *Jimenez v. Jimenez*, 454 N.J. Super. 432 (App. Div. 2018) | **Yes** | Yes | No forced partition or sale for a tenancy created on or after April 4, 1988; the debtor spouse's right of survivorship can still be levied on and sold |
| **New York** | N.Y. Est. Powers & Trusts Law § 6-2.2; *V.R.W., Inc. v. Klein*, 68 N.Y.2d 560 (1986) | **Yes** | Cooperative apartment shares only | Sell the debtor spouse's interest, which the buyer takes subject to the couple's reciprocal survivorship rights; involuntary partition is barred, and the buyer takes nothing if the debtor spouse dies first |

| State | Authority | Real Property | Personal Property | What a Creditor of One Spouse Can Do |
|---|---|---|---|---|
| **North Carolina** | N.C. Gen. Stat. §§ 41-56, 41-59, 41-60 | **Yes** | Mobile home only | Nothing during the marriage, but the debtor spouse's half of the income is exposed, and a live lien attaches on divorce or on the other spouse's death |
| **Oklahoma** | Okla. Stat. tit. 60, § 74 | **Yes** | Yes | Levy on and sell the debtor spouse's interest, which severs the tenancy |
| **Oregon** | Or. Rev. Stat. § 93.180(1)(b); *Brownley v. Lincoln County*, 218 Or. 7, 343 P.2d 529 (1959) | **Yes** | No | Reach the debtor spouse's interest and half the rents and profits, subject to the other spouse's survivorship; the lien follows that interest through a divorce |
| **Pennsylvania** | *Madden v. Gosztonyi Savings & Trust Co.*, 331 Pa. 476, 200 A. 624 (1938) | **Yes** | Yes, bank accounts included | Nothing; neither spouse holds an individual portion a separate creditor can reach |
| **Rhode Island** | R.I. Gen. Laws § 34-11-3; *Cull v. Vadnais*, 122 R.I. 249, 406 A.2d 1241 (1979) | **Yes** | Unsettled | Attach the debtor spouse's interest but not force a sale during the marriage; the attachment can be enforced if the debtor spouse survives |
| **Tennessee** | Tenn. Code Ann. § 66-1-109; *Griffin v. Prince*, 632 S.W.2d 532 (Tenn. 1982); *In re Arango*, 992 F.2d 611 (6th Cir. 1993) | **Yes** | Yes, bank accounts included | Execute against the debtor spouse's right of survivorship but not against the present possessory interest |
| **Vermont** | Vt. Stat. Ann. tit. 27, § 349; *RBS Citizens, N.A. v. Ouhrabka*, 2011 VT 86, 30 A.3d 1266 | **Yes** | Unsettled | Nothing; a creditor of one spouse cannot attach entireties real estate |
| **Virginia** | Va. Code Ann. § 55.1-136; *Vasilion v. Vasilion*, 192 Va. 735, 66 S.E.2d 599 (1951); *Oliver v. Givens*, 204 Va. 123 (1963) | **Yes** | Yes, including the proceeds of a sale of entireties real estate | Nothing on a judgment against one spouse alone |
| **Wyoming** | Wyo. Stat. Ann. §§ 34-1-140, 34-14-202; *Lurie v. Blackwell*, 2002 WY 110, 51 P.3d 846 | **Yes** | Yes, but the account has to say tenancy by the entirety | Nothing; a judgment creditor of one spouse cannot seize entireties property |

Ohio is missing from the chart because it abolished tenancy by the entirety going forward. A married couple cannot create a new tenancy by the entirety in Ohio today; deeds recorded before the repeal remain valid. Even those older deeds are read narrowly. A deed from that era that used only survivorship wording created a joint tenancy with survivorship rights, not entireties ownership.

## Does Alabama Recognize Tenancy by the Entirety?

Alabama does not recognize tenancy by the entirety, and no Alabama statute creates one. A deed to a married couple there creates a tenancy in common by default; each spouse owns half (*First National Bank of Birmingham v. Lawrence*, 212 Ala. 45 (1924)).

An Alabama couple who want survivorship must write it into the deed. State law gives survivorship rights only where the deed expressly provides for them. Even then, the result is a joint tenancy with right of survivorship, not a tenancy by the entirety. The Alabama Supreme Court held in *Nunn v. Keith*, 289 Ala. 518, 268 So. 2d 792 (1972), that this survivorship estate is destructible just as it was at common law, so either owner acting alone can sever it.

Alabama's execution statute reaches a debtor's vested interest in real estate owned in common with others. A second statute lets a court sell jointly owned property and divide the proceeds, a forced sale known as partition. So a judgment creditor of one spouse can seize that spouse's interest and force the sale. Survivorship titling in Alabama controls who inherits; it does not keep a creditor out.

## Which Other States Do Not Recognize Tenancy by the Entirety?

Twenty-five states do not recognize tenancy by the entirety, Alabama among them. Ohio, where no new tenancy by the entirety can be created, fits neither count and is the fiftieth state. Nine of the twenty-five are community property states: Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington, and Wisconsin. Community property treats most assets acquired during the marriage as owned equally by both spouses, and it is generally liable for the debts of the marriage.

The other sixteen are common law states that either never adopted entireties ownership or later abolished it: Alabama, Colorado, Connecticut, Georgia, Iowa, Kansas, Maine, Minnesota, Montana, Nebraska, New Hampshire, North Dakota, South Carolina, South Dakota, Utah, and West Virginia. A married couple's deed that says tenants by the entirety still works in Connecticut, Maine, New Hampshire, and Utah, but it creates a severable joint tenancy instead.

## What Can a Creditor of One Spouse Do in Each State?

In Delaware, Florida, Hawaii, Illinois, Indiana, Maryland, Michigan, Missouri, North Carolina, Pennsylvania, Vermont, Virginia, Wyoming, and the District of Columbia, a creditor holding a judgment against one spouse alone has no remedy against the property itself while the marriage lasts. Five states protect less than that: Kentucky, Massachusetts, New Jersey, Rhode Island, and Tennessee each stop short of full immunity in a different way. In five more, the creditor can reach and sell the debtor spouse's interest outright: Alaska, Arkansas, New York, Oklahoma, and Oregon. Mississippi's appellate courts have never answered the question.

### States Where the Creditor Has No Remedy Against the Property During the Marriage

In Hawaii, neither spouse's interest is subject to that spouse's individual creditors while both spouses are alive (*Sawada v. Endo*, 57 Haw. 608, 561 P.2d 1291 (1977)). Pennsylvania applies the same rule to bank accounts. Under *Madden v. Gosztonyi Savings & Trust Co.*, 331 Pa. 476, 200 A. 624 (1938), neither spouse holds an individual portion a separate creditor can reach.

North Carolina bars a judgment lien against one spouse from attaching to entireties property, but the statute leaves two openings. Income from the property becomes each spouse's separate personal property in equal shares, so a creditor can take the debtor spouse's half of the rent. And if a lien is still alive when the entireties ownership ends, it attaches at that moment, to the debtor spouse's share after a divorce or to the whole property if the debtor spouse outlives the other.

Illinois shields only the entireties homestead, and even that shield has two statutory limits. The property's income can be garnished; a transfer into entireties ownership made solely to avoid existing debts is outside the protection. Delaware protects the property fully during the couple's joint lives, but a judgment against one spouse sits as a dormant lien that becomes enforceable if the debtor spouse outlives the other.

### States Where Protection Stops Short of Full Immunity

Kentucky splits the ownership into present and future pieces. A creditor cannot touch the couple's present right to possess the property, but Kentucky's collection statute reaches contingent interests, so the creditor can put a lien on the debtor spouse's chance of outliving the other and sell that chance now. The rule comes from *Hoffmann v. Newell*, 249 Ky. 270 (1932), and courts applying Kentucky law have followed it ever since. The buyer at such a sale collects only if the debtor spouse survives.

Tennessee draws the same line. A creditor can take and sell the debtor spouse's right of survivorship but not the couple's present interest (*In re Arango*, 992 F.2d 611 (6th Cir. 1993)). The coverage includes bank accounts. The Tennessee Supreme Court threw out a garnishment of a couple's joint accounts in *Griffin v. Prince*, 632 S.W.2d 532 (Tenn. 1982).

Rhode Island lets a creditor attach the debtor spouse's interest but not force a sale during the marriage. If the debtor spouse survives, the creditor can enforce the attachment and compel a sale of the property (*Cull v. Vadnais*, 122 R.I. 249, 406 A.2d 1241 (1979)). Massachusetts protects only the home the non-debtor spouse lives in; other entireties real estate is reachable.

New Jersey redrew its rule by statute for tenancies created on or after April 4, 1988. A creditor of one spouse cannot force a sale or division of those tenancies during the marriage; the court in *Jimenez v. Jimenez*, 454 N.J. Super. 432 (App. Div. 2018), held that the statute superseded the older case law allowing it.

What is left for a creditor in New Jersey is narrower. A creditor can still take and sell the debtor spouse's right of survivorship, and a transfer into entireties ownership made to defeat known creditors can be unwound as a fraudulent conveyance. That exposure carries into bankruptcy. New Jersey's bankruptcy court has held that because the survivorship right can be taken and sold, entireties property is not exempt there (*In re Weiss*, 638 B.R. 543 (Bankr. D.N.J. 2022)).

### States Where the Creditor Has a Present Remedy Against the Property

At the weak end, the creditor gets a present remedy against the property itself. Alaska's exemption statute lets a creditor seize and sell the debtor spouse's interest, then have the property divided or that interest severed. Arkansas allows a sale of the debtor spouse's interest, but the buyer takes subject to the other spouse's possession, survivorship rights, and half of the rents and profits (*Morris v. Solesbee*, 892 S.W.2d 281 (Ark. Ct. App. 1995)).

Oklahoma permits a seizure and sale, and the sale severs the tenancy by the entirety. Oregon gives the creditor the debtor spouse's half of the rents and profits along with the interest itself, subject to the other spouse's survivorship. The lien follows that interest through a divorce (*Brownley v. Lincoln County*, 218 Or. 7, 343 P.2d 529 (1959)).

New York belongs in that group, but the buyer's position is weaker than a sale suggests. A creditor can sell the debtor spouse's interest, and the buyer becomes a tenant in common sharing possession and profits with the non-debtor spouse. The buyer takes subject to the couple's reciprocal survivorship rights and cannot force a division or sale while the marriage lasts; if the debtor spouse dies first, the buyer is left with nothing. A divorce ends entireties ownership, and only then can the buyer seek partition (*V.R.W., Inc. v. Klein*, 68 N.Y.2d 560 (1986)).

### Mississippi's Unsettled Rule

Mississippi recognizes tenancy by the entirety, and neither spouse can end it alone, but no Mississippi appellate court has decided what a creditor of one spouse may do with entireties property.

## Which States Extend Tenancy by the Entirety to Personal Property?

Twelve states and the District of Columbia extend tenancy by the entirety to personal property as well as real estate: Arkansas, Delaware, Florida, Hawaii, Maryland, Missouri, New Jersey, Oklahoma, Pennsylvania, Tennessee, Virginia, and Wyoming. Everywhere else, a couple's home can be entireties property while the bank and brokerage accounts stay exposed to either spouse's separate creditors.

Alaska, Illinois, Indiana, Kentucky, Massachusetts, and Oregon confine the ownership to real estate, and Illinois confines it to the homestead. Three more states cover only a narrow class of assets. Michigan's statute reaches bonds, stock certificates, mortgages, and promissory notes payable to husband and wife, but not deposit accounts. New York recognizes entireties ownership of cooperative apartment shares. North Carolina adds only a mobile home owned by husband and wife.

Mississippi, Rhode Island, and Vermont have never decided whether the ownership extends past real estate; no statute or appellate decision in any of the three covers personal property. A couple in those states cannot count on entireties protection for an account.

Florida goes furthest with financial accounts. A married couple's joint bank account is presumed entireties property by statute unless the paperwork says otherwise. The Florida Supreme Court reached that result at common law in *Beal Bank, SSB v. Almand & Associates*, 780 So. 2d 45 (Fla. 2001), and the statute followed seven years later. In *Loumpos v. Bank One*, 423 So. 3d 856 (Fla. 2025), the same court held that a joint spousal account qualifies even though one spouse opened it. Missouri's banking statute presumes the same for marital deposits.

The other personal property states ask more of the couple. A Wyoming account has to say tenancy by the entirety in its title. Maryland and Delaware look for proof that the couple intended entireties ownership. Maryland's highest court accepted entireties ownership of personal property but refused it for a settlement check where that intent was missing (*Diamond v. Diamond*, 298 Md. 24 (1983)). Delaware's Court of Chancery refused it for a partnership interest that had stood in the husband's name alone for five years (*Widder v. Leeds*, 317 A.2d 32 (Del. Ch. 1974)).

## Does the IRS Respect Tenancy by the Entirety?

No. A federal tax lien attaches to the delinquent spouse's interest in entireties property in every state, however strong the state's protection is against private creditors. The Supreme Court settled the question in *United States v. Craft*, 535 U.S. 274 (2002). State law fixes what rights a spouse holds in the property, and federal law decides whether those rights are property the tax lien can reach.

United States v. Craft came out of Michigan, where entireties land was exempt from one spouse's creditors. The exemption did not defeat the federal lien in *Craft*, because exempt status under state law "does not bind the federal collector."

Whether the IRS can then force a sale is a separate question. Federal law grants the power, a court weighs the equities first, and the non-liable spouse is compensated from the proceeds (*United States v. Rodgers*, 461 U.S. 677 (1983)). The Eleventh Circuit applied the same reasoning to an IRS wage levy against a Florida taxpayer in *United States v. Ryals*, 480 F.3d 1101 (11th Cir. 2007). Dividend income he and his wife received as tenants by the entirety counted as his own income, and he lost his exemption from the levy.

The rule stops at the federal tax collector; a private judgment creditor gets nothing from *Craft*. The Eleventh Circuit refused to extend the decision beyond the IRS's own powers (*In re Sinnreich*, 391 F.3d 1295 (11th Cir. 2004)).

Florida's courts drew the same line. When Wells Fargo persuaded a trial court to award it a couple's joint tax refunds on a judgment against the husband alone, the Second District reversed the award. Wells Fargo, the court wrote, "is not the IRS and lacks the IRS's special authority under the Internal Revenue Code" (*Gibson v. Wells Fargo Bank, N.A.*, 255 So. 3d 944 (Fla. 2d DCA 2018)).

## Do the Protections Follow Property Across State Lines?

Real estate is governed by the law of the state where it sits, not by the law of the couple's home state. A married couple living in Georgia, which has no entireties ownership, can still hold a Florida vacation home as tenants by the entirety and get Florida's protection for it.

Bank and brokerage accounts are harder to place, and the clearest rule comes from bankruptcy law. The Bankruptcy Code's exemption provision looks to the law of the state where the property is located. A Rhode Island debtor claimed entireties protection for an account at a Vermont bank in *McNeilly v. Geremia*, 249 B.R. 576 (B.A.P. 1st Cir. 2000). The appellate panel keyed the exemption to the account's location rather than the debtor's home state; the trustee had not proved Vermont law barred the claim, and the exemption stood.

That rule is part of the Bankruptcy Code; it does not decide which state's law a court applies to the same account outside bankruptcy. A couple planning around another state's stronger protection is relying on an open question.

## How Is Tenancy by the Entirety Created?

Tenancy by the entirety is created by how the property is titled. The deed or account has to vest the property in a married couple in the form the state's law requires. The common law required the couple to take the property at the same time, in the same deed, holding equal interests and equal possession while married.

Several states have dropped the old rule that an owner had to deed the property through a third person to create a tenancy by the entirety with a spouse. Statutes in North Carolina and Hawaii let an owner deed property directly to the owner and spouse. Florida allows the same deed under Fla. Stat. § 689.11, which lets the spouse holding title create a tenancy by the entirety by conveying to both spouses.

In several states the ownership arrives by default. Real estate deeded to a married couple in Alaska or Oregon becomes entireties property automatically unless the deed says otherwise. New York and Pennsylvania presume the ownership when real estate is titled in both spouses' names. A New York transfer to two unmarried people described as spouses creates a joint tenancy instead. Florida presumes entireties ownership for both real estate and joint bank accounts.

Other states demand express words. Illinois requires the deed to declare entireties ownership expressly, limits the ownership to homestead property, and opened it to couples in a civil union effective January 1, 2026 (P.A. 104-40). A Kentucky deed carries entireties survivorship only where it expressly provides for it. Hawaii requires the deed to show the intention on its face.

In Massachusetts, a deed to a married couple that uses joint tenancy or survivorship words creates a joint tenancy, not a tenancy by the entirety, and a deed that names the couple only as husband and wife creates a tenancy in common. Property left to a couple by will becomes entireties property only where the will expressly says so. Titling slips like these are the way couples lose entireties protection without realizing it.

## Which States Give a Married Couple the Strongest Protection?

Florida, Hawaii, Missouri, Pennsylvania, and Virginia combine full creditor protection with personal property coverage. In those states a separate creditor has no path to the property, and the ownership covers bank accounts as well as the home. Maryland and Wyoming reach the same place with a condition attached: Maryland requires proof of the couple's intent, and a Wyoming account has to carry the entireties title. Delaware protects fully during the couple's joint lives but lets a judgment against one spouse become enforceable if the debtor spouse outlives the other.

The protections on the chart stop private creditors only; a federal tax lien reaches the debtor spouse's interest in every state. A divorce ends the ownership. And titling done correctly at the start decides whether the protection ever existed at all.

# Sources

*The record behind each row of the chart, jurisdiction by jurisdiction: the statute or decision that creates the estate, the authority that fixes what property it reaches, and the statute or decision that states what a creditor holding a judgment against one spouse alone may do. Where a state also has a statute preserving the immunity after a conveyance into trust, that section is named. Ohio, which grandfathers its pre-repeal deeds and creates no new ones, the twenty-five states that do not recognize the estate, and the federal tax and bankruptcy authorities that sit on top of every state's rule are collected at the end.*

## Alaska

Alaska Stat. § 34.15.140(a) ('The right to hold an estate in land as tenants by the entirety, with the right of survivorship, is recognized'); § 34.15.140(c) (a spouse may convey to self and the other spouse as tenants by the entirety)

Alaska Stat. § 34.15.110(b) (entireties is the automatic default for a married couple acquiring real property unless expressly disclaimed, subject to a community-property election under § 34.77.100)

Alaska Stat. § 09.38.100(a) ('If an individual and another own property in this state as tenants in common or tenants by the entirety, a creditor of the individual, subject to the individual's right to claim an exemption under this chapter, may obtain a levy on and sale of the interest of the individual in the property. A creditor who has obtained a levy, or a purchaser who has purchased the individual's interest at the sale, may have the property partitioned or the individual's interest severed.')

## Arkansas

Ark. Code Ann. § 23-47-204(b)(1)(C), (b)(3), (c)(2), (k) (account documents must enable designation as 'Tenants by the entirety'; the designation 'shall be conclusive evidence in any action or proceeding involving the deposit account of the intention of all depositors'; an account is 'A tenants by the entirety deposit account, if the depositors have indicated in the account documents that they are married to each other'; applies to deposit accounts established on or after June 1, 2015)

Ark. Code Ann. § 9-12-317(a) ('any estate by the entirety or survivorship in real or personal property held by the parties to the divorce')

Morris v. Solesbee, 48 Ark. App. 123, 892 S.W.2d 281 (Ark. Ct. App. 1995) ('We therefore hold that a third party may execute against a spouse's interest in a tenancy by the entirety, subject to the other spouse's continued rights of possession and survivorship, and interest in one-half of the rents and profits'), following Moore v. Denson, 167 Ark. 134, 268 S.W. 609 (1924), Pope v. McBride, 207 Ark. 940, 184 S.W.2d 259 (1944), Franks v. Wood, 217 Ark. 10, 228 S.W.2d 480 (1950) and Ellis v. Ashby, 227 Ark. 479, 299 S.W.2d 206 (1957)

Ark. Code Ann. § 28-72-602 ('Settlement of trust') (trust property 'Shall be treated as tenants by entirety property for the purpose of immunity')

## Delaware

Widder v. Leeds, 317 A.2d 32, 35 (Del. Ch. 1974) ('Previous decisions in this State have recognized that personal property may be owned by husband and wife as tenants by the entireties'; 'It has likewise been held that, in the absence of proof to the contrary, a joint bank account opened in the conjunctive form in the name of a husband and wife may create a tenancy by the entireties, and this status is not altered by the fact that either may withdraw funds therefrom'), citing Carlisle v. Parker, 188 A. 67 (Del. Super. 1936), Hoyle v. Hoyle, 66 A.2d 130 (Del. Ch. 1949) and Ciconte v. Barba, 161 A. 925 (Del. Ch. 1932)

Widder, 317 A.2d at 35 (the presumption is rebuttable: entireties treatment was refused for a limited-partnership interest held of record in the husband's sole name for five years)

Steigler v. Insurance Co. of North America, 384 A.2d 398 (Del. 1978); Mitchell v. Wilmington Trust Co., 449 A.2d 1055, 1057-58 (Del. Ch. 1982), quoting Hurd v. Hughes, 109 A. 418, 419 (Del. Ch. 1920) ('the creditors of either spouse cannot during their joint lives reach by execution any interest which the debtor had in land so held ... because his possibility of survivorship cannot be taken in execution')

Mitchell, 449 A.2d at 1058-60 (a one-spouse encumbrance creates 'an inchoate lien, incapable of execution during the joint lives of the tenants' which vests if the debtor spouse survives; divorce converts the estate to a tenancy in common; spousal conveyance is permitted under 25 Del. C. § 309)

12 Del. C. § 3334 ('Contributions to revocable trusts'), whose sole creditor remedy is 'an order directing the trustee to transfer the property to both spouses as tenants by the entireties'

## District of Columbia

D.C. Code § 42-516(c) ('A tenancy by the entirety may be created in any conveyance of real property to spouses or to domestic partners as that term is defined in section 32-701(3).')

D.C. Code § 46-601(d) ('A tenancy by the entirety may be created in any conveyance of personal property to spouses or to domestic partners.'); § 46-601(c) (preserving the law of entireties ownership); § 46-601(b)(2) (both spouses or domestic partners remain liable for necessaries)

Finley v. Thomas, 691 A.2d 1163, 1164 (D.C. 1997), quoting Roberts & Lloyd, Inc. v. Zyblut, 691 A.2d 635, 638 (D.C. 1997) ('[U]nlike a joint tenancy with right of survivorship, property held by tenancy by the entireties is not subject to execution or levy for the debts of only one of the cotenants'), citing Held v. McNett, 154 A.2d 349, 350 (D.C. 1959) and Fairclaw v. Forrest, 130 F.2d 829, 833 and n.3 (D.C. Cir. 1942)

Finley, 691 A.2d at 1165 n.3 ('In the District of Columbia, a tenancy by the entireties may exist in personalty as well as real property'), citing Flaherty v. Columbus, 41 App. D.C. 525, 529 (1914); at 1164, quoting Held, 154 A.2d at 350 (on a normal, routine sale of entireties realty the spouses 'continue to have the same title and estate in the proceeds of the sale that they had in the realty')

Finley, 691 A.2d at 1165 n.1 (a conveyance to a married couple 'as joint tenants' creates a tenancy by the entirety as a rule of construction), citing Daniel v. Wright, 352 F. Supp. 1, 4 (D.D.C. 1972) and Settle v. Settle, 56 App. D.C. 50, 8 F.2d 911 (1925)

D.C. Code § 42-516(d)(1)-(4) (former entireties property conveyed into a qualifying trust is presumed to keep the 'same immunity from the claims of the separate creditors', the immunity continuing after the first death and reaching proceeds)

## Florida

Fla. Stat. § 655.79(1) ('Any deposit or account made in the name of two persons who are husband and wife shall be considered a tenancy by the entirety unless otherwise specified in writing'), rebuttable under § 655.79(2) 'only by proof of fraud or undue influence or clear and convincing proof of a contrary intent'

Loumpos v. Bank One, 423 So. 3d 856, 858 (Fla. 2025) (unanimous) (§ 655.79 authorizes a tenancy by the entirety even where one spouse opened the account; the presumption does not depend on the unities of time and title)

Beal Bank, SSB v. Almand & Associates, 780 So. 2d 45, 60 (Fla. 2001) (a joint-tenancy-with-right-of-survivorship designation alone does not defeat the entireties presumption for an account both spouses opened; an express disclaimer on the signature card does)

Johnson v. Landefeld, 138 Fla. 511, 189 So. 666 (1939) (a husband's direct conveyance to himself and his wife creates the estate, without a straw man)

Gibson v. Wells Fargo Bank, N.A., 255 So. 3d 944 (Fla. 2d DCA 2018) (a bank 'is not the IRS and lacks the IRS's special authority under the Internal Revenue Code')

## Hawaii

Haw. Rev. Stat. § 509-2(a) ('Land, or any interest therein, or any other type of property or property rights or interests or interest therein, may be conveyed by a person to oneself and another or others as joint tenants, or by a person to oneself and one's spouse or reciprocal beneficiary ... as tenants by the entirety ... if the tenor of the instrument manifestly indicates such intention'); enactment history '[L 1941, c 167, § 1; ... am L 1997, c 383, § 10; am L 2012, c 209, § 1]'

Sawada v. Endo, 57 Haw. 608, 561 P.2d 1291, 1295 (1977) ('under the Married Women's Property Acts the interest of a husband or a wife in an estate by the entireties is not subject to the claims of his or her individual creditors during the joint lives of the spouses'); at 1297 ('the creation of a tenancy by the entirety may not be used as a device to defraud existing creditors')

Haw. Rev. Stat. § 509-2(b)-(j), added by 2012 Haw. Sess. Laws Act 209, § 1 (trust immunity, 'Conveyance of any real property located in the State'; subsection (c) conditions, including the spouses' names in the trust name and a recorded notice that 'shall specifically refer to this section'; subsection (f) terminates the immunity on divorce; subsection (h) puts the burden of proving immunity on the spouses)

## Illinois

765 ILCS 1005/1c (the instrument must expressly declare the estate, which is limited to property 'maintained or intended for maintenance as a homestead'; a purported entireties grant to grantees not married or in a civil union 'shall be construed as having created an estate in joint tenancy'; extended to parties to a civil union by P.A. 104-40, eff. 1-1-26)

735 ILCS 5/12-112 ('Any real property, any beneficial interest in a land trust, or any interest in real property held in a revocable inter vivos trust ... held in tenancy by the entirety shall not be liable to be sold upon judgment entered on or after October 1, 1990 against only one of the tenants, except if the property was transferred into tenancy by the entirety with the sole intent to avoid the payment of debts existing at the time of the transfer beyond the transferor's ability to pay those debts as they become due. However, any income from such property shall be subject to garnishment ... whether judgment has been entered against one or both of the tenants.') (Source: P.A. 99-85, eff. 1-1-16.)

## Indiana

Ind. Code § 32-17-3-1(b)-(c) (the estate arises on a married couple's purchase of real estate or lease with an option to buy; 'The interest of neither party is severable during the marriage.')

Ind. Code § 34-55-10-2(c)(5) ('Any interest that the debtor has in real estate held as a tenant by the entireties. The exemption under this subdivision does not apply to a debt for which the debtor and the debtor's spouse are jointly liable.')

Ind. Code § 34-55-10-2(d) ('A bankruptcy proceeding that results in the ownership by the bankruptcy estate of a debtor's interest in property held in a tenancy by the entireties does not result in a severance of the tenancy by the entireties.')

Ind. Code § 30-4-3-35 ('Matrimonial trusts'), real property on its face; Sharp v. Baker, 51 Ind. App. 547, 96 N.E. 627 (1911), catalogued in Sawada v. Endo, 561 P.2d 1291, 1294-95 (Haw. 1977)

## Kentucky

Ky. Rev. Stat. § 381.050(1) ('If real estate is conveyed or devised to husband and wife, unless a right by survivorship is expressly provided for, there shall be no mutual right to the entirety by survivorship between them, but they shall take as tenants in common.')

Hoffmann v. Newell, 249 Ky. 270, 284-85, 60 S.W.2d 607, 610-13 (1932) (adopting the majority rule for the estate itself, then holding the debtor spouse's contingent survivorship interest separately leviable because the general contingent-interest execution statute compelled it: the creditor 'takes the interest acquired upon its sale, subject only to the defeasance its very contingent nature demands, its destruction through the wife's survivorship of his judgment debtor')

Ky. Rev. Stat. § 426.190, the successor to Ky. Stat. § 1681 quoted in Hoffmann and surviving word for word ('Land to which the defendant has a legal or equitable title in fee, for life or for a term, whether in possession, reversion or remainder, or in which the defendant has a contingent interest or a contingent remainder or a defeasible fee, may be taken and sold under execution')

United States v. Winsper, 680 F.3d 482, 487 (6th Cir. 2012) ('Malcolm Winsper's individual tax lien attached to his partial contingent survivorship interest'); United States v. Coffman, 997 F. Supp. 2d 677, 690-91 (E.D. Ky. 2014), quoting In re Brumbaugh, 250 B.R. 605, 608 (W.D. Ky. 2000) ('creditors of a debtor-spouse may attach and sell under execution a debtor's contingent interest or expectancy of the fee in property held as tenants by the entirety'); Raybro Electric Supplies, Inc. v. Barclay, 813 F. Supp. 1267, 1269 (W.D. Ky. 1992); United States v. Real Property at 5205 Mount Howard Court, 755 F. Supp. 169, 173 (W.D. Ky. 1990)

Saylor v. Saylor, 389 S.W.2d 904, 905-06 (Ky. 1965) (Kentucky deposit accounts turn on third-party-beneficiary contract; under Gellert v. Busman's Administrator, 239 Ky. 328, 39 S.W.2d 511 (1931), a husband-and-wife account in the conjunctive form is 'the equivalent of a tenancy in common', which the court records is 'contrary' to the majority entireties rule)

## Maryland

Diamond v. Diamond, 298 Md. 24, 29, 467 A.2d 510 (1983) ('It is well established that this Court recognizes that a tenancy by the entireties may be created in personal property'), quoting Hertz v. Mills, 166 Md. 492, 496, 171 A. 709 (1934) ('The essential nature of an estate by the entireties precludes the recognition of any burden upon it resulting from the separate act or obligation of either of the co-owners.')

Diamond, 298 Md. at 31-32, following Jones v. Jones, 259 Md. 336, 270 A.2d 126 (1970) ('in order to create a tenancy by the entireties there must be evidence of an intent to transfer property previously held by an individual to the marital unit'); the Diamonds did not hold the settlement check that way, so the husband's share 'was attachable'

Watterson v. Edgerly, 40 Md. App. 230, 388 A.2d 934 (Md. Ct. Spec. App. 1978) ('It has long been settled in this State that the property of a husband or wife held as tenants by the entireties cannot be taken by the creditors to satisfy the individual debts of either the husband or wife'; 'the judgment creditor of the husband or of the wife has no lien against the property held as entireties, and no standing to complain of a conveyance which prevents the property from falling into his grasp')

Van Royen v. Lacey, 266 Md. 649, 651, 296 A.2d 426 (1972); Beall v. Beall, 291 Md. 224, 234, 434 A.2d 1015 (1981) ('Maryland retains the estate of tenancy by the entirety in its traditional form')

Md. Code, Est. & Trusts § 14-625 (entireties property conveyed to trust)

## Massachusetts

Mass. Gen. Laws ch. 184, § 7 ('A conveyance or devise of land to two or more persons or to husband and wife ... shall create an estate in common and not in joint tenancy, unless ...'; 'A devise of land to a person and his spouse shall, if the instrument creating the devise expressly so states, vest in the devisees a tenancy by the entirety'; a conveyance or devise expressly stating that the grantees take jointly, as joint tenants, in joint tenancy, or to them and the survivor of them 'shall create an estate in joint tenancy and not a tenancy by the entirety')

Mass. Gen. Laws ch. 209, § 1, 2d para. ('The interest of a debtor spouse in property held as tenants by the entirety shall not be subject to seizure or execution by a creditor of such debtor spouse so long as such property is the principal residence of the nondebtor spouse; provided, however, both spouses shall be liable jointly or severally for debts incurred on account of necessaries')

## Michigan

Mich. Comp. Laws § 557.71 ('A husband and wife shall be equally entitled to the rents, products, income, or profits, and to the control and management of real or personal property held by them as tenants by the entirety.')

Mich. Comp. Laws § 557.151 (bonds, stock certificates, mortgages, promissory notes, debentures and other evidences of indebtedness payable to a husband and wife are within the estate; ordinary bank deposit accounts are not on the statutory list)

Mich. Comp. Laws § 600.5451(1)(n) (exempting § 557.151 property and entireties realty 'except that this exemption does not apply with regard to a claim based on a joint debt of the husband and wife')

DeYoung v. Mesler, 373 Mich. 499, 504, 130 N.W.2d 38 (1964) ('execution upon a judgment against the husband only, no fraud being involved, will not lie'); Hoyt v. Winstanley, 221 Mich. 515, 520, 191 N.W. 213 (1922) (creditor of the husband alone levied and sold, and took nothing); Sanford v. Bertrau, 204 Mich. 244, 247, 169 N.W. 880 (1918)

## Mississippi

Miss. Code Ann. § 89-1-7 (the estate arises by express instrument; the section speaks to 'conveyances or devises of land')

Newton v. Long, 588 So. 2d 192, 194, 196 (Miss. 1991) (en banc), quoting Ayers v. Petro, 417 So. 2d 912, 914 (Miss. 1982) ('An estate by entirety may exist only in a husband and wife and may not be terminated by the unilateral action of one of them')

The creditor question is unadjudicated in Mississippi's appellate courts; the immunity is applied only by federal bankruptcy courts reasoning from the state's inalienability holdings: In re Pace, 521 B.R. 124, 126, 133 (Bankr. N.D. Miss. 2014) ('property owned by spouses as tenants by the entirety is exempt from the claims of creditors of only one spouse (but not necessarily from the claims of joint creditors)'); A/C Supply, Inc. v. Botsay, No. 21-06001-KMS (Bankr. S.D. Miss. Jan. 11, 2022)

## Missouri

Mo. Rev. Stat. § 442.450 ('Every interest in real estate granted or devised to two or more persons, other than executors and trustees and husband and wife, shall be a tenancy in common, unless expressly declared, in such grant or devise, to be in joint tenancy.')

Mo. Rev. Stat. § 362.470.5 ('Any deposit made in the name of two persons or the survivor thereof who are husband and wife shall be considered a tenancy by the entirety unless otherwise specified')

Hanebrink v. Tower Grove Bank & Trust Company, 321 S.W.2d 524 (Mo. Ct. App. 1959), carried for the entireties and individual-debt rule by Flesher v. Carter, 467 S.W.2d 276 (Mo. App. 1971), Merrill Lynch v. Shackelford, 591 S.W.2d 210 (Mo. App. 1979), Vaughn v. Spitz, 682 S.W.2d 847 (Mo. App. 1984) and United States Fidelity & Guaranty Co. v. Hiles, 670 S.W.2d 134 (Mo. App. 1984)

Brown v. Mercantile Bank of Poplar Bluff, 820 S.W.2d 327, 336-37 (Mo. Ct. App. S.D. 1991) (garnishment of an $85,000 certificate of deposit) ('It is well established at common law that there can be an estate by the entirety in a bank account'; 'execution arising from a judgment against the husband alone ordinarily cannot affect a bank account or other property held by a husband and wife' as tenants by the entirety, quoting Vaughn v. Spitz, 682 S.W.2d at 848)

Mo. Rev. Stat. § 456.950 (qualified spousal trusts)

## New Jersey

N.J. Stat. Ann. § 46:3-17.2(a)-(c) (creation, expressly reaching 'real property or personal property')

N.J. Stat. Ann. § 46:3-17.4 ('Neither spouse may sever, alienate, or otherwise affect their interest in the tenancy by entirety during the marriage or upon separation without the written consent of both spouses'), L. 1987, c. 357, § 7

Jimenez v. Jimenez, 454 N.J. Super. 432, 433-34, 185 A.3d 954 (App. Div. 2018) ('We hold the statute prohibits such non-consensual partition. The statute supersedes and nullifies earlier case law that had allowed such a creditor's remedy in certain equitable circumstances.'); at 435 (approved January 5, 1988, effective ninety days after adoption and applicable to 'all tenancies which are created on or after' that effective date, L. 1987, c. 357, § 10; see Freda v. Commercial Trust Co., 118 N.J. 36, 40, 570 A.2d 409 (1990))

Jimenez, 454 N.J. Super. at 436, quoting N.T.B. v. D.D.B., 442 N.J. Super. 205, 218, 121 A.3d 910 (App. Div. 2015) ('[A] tenant by the entirety can alienate his or her right of survivorship, and a judgment creditor of either spouse may levy and execute upon such right'; 'neither tenant may force the involuntary partition of the subject property during the marriage'); at n.3 (the 1988 scheme extended entireties status to personal property); at 438-39 (the fraudulent conveyance remedy is preserved, N.J.S.A. 25:2-1 to -6)

## New York

N.Y. Est. Powers & Trusts Law § 6-2.2(b), (c), (d) (the spousal presumption for real property, and cooperative apartment shares with the accompanying proprietary lease for dispositions made on or after January 1, 1996)

V.R.W., Inc. v. Klein, 68 N.Y.2d 560, 565, 510 N.Y.S.2d 848, 503 N.E.2d 496 (1986) ('each tenant may sell, mortgage or otherwise encumber his or her rights in the property, subject to the continuing rights of the other'; what the grantee or mortgagee takes is 'a right to shared possession and ownership subject to the original cotenants' reciprocal rights of survivorship'; 'If the grantor or mortgagor predeceases the spouse whose interest in the property has been retained, the grantee or mortgagee is left with no interest in the property at all.'), restating Hiles v. Fisher, 144 N.Y. 306

V.R.W., 68 N.Y.2d at 564 and n.* ('involuntary partition is not available to either cotenant as a means of severing the tenancy by the entirety'; 'the absolute bar to involuntary partition of the property', extended expressly to a one-spouse transferee)

V.R.W., 68 N.Y.2d at 566-68 (on divorce the tenancy is 'dissolved by operation of law' and the purchaser then acquires 'all of the rights of an ordinary tenant in common, including the right to seek partition')

## North Carolina

N.C. Gen. Stat. § 41-56(b) ('A conveyance by a grantor of real property, or any interest in real property, to the grantor and his or her spouse vests the property in them as tenants by the entirety, unless a contrary intention is expressed in the conveyance'); § 41-56(d) (the mobile home provision); credit line '(1957, c. 598, s. 1; ...; 2020-23, s. 13; 2020-50, ss. 1(a)-(c), 3.1; 2021-91, s. 8.)'

N.C. Gen. Stat. § 41-60(a)(1) ('The property may not be held liable for individual debts of either spouse and a judgment lien against one spouse alone does not attach to the property. The property may be conveyed by joint deed of both spouses to anyone of their choice free and clear of a judgment lien against either spouse.'); § 41-60(a)(2) ('The property is liable for obligations of both spouses and a judgment lien against both spouses upon a joint obligation attaches to the property which may be sold under execution to satisfy the judgment.')

N.C. Gen. Stat. § 41-59(a) ('Income derived from property held by spouses as tenants by the entirety becomes personal property held by the spouses as tenants in common in equal shares.')

N.C. Gen. Stat. § 41-60(b)(1)-(2) (on termination by divorce, or by the debtor spouse surviving the other, a still-active and unsatisfied one-spouse judgment lien 'shall attach at that time to that spouse's interest in the new estate')

N.C. Gen. Stat. § 41-65 ('Entireties property conveyed to trusts'), real property only, conditioned on the spouses remaining married, the property remaining in trust and both spouses remaining current beneficiaries; credit line '(2014-115, s. 33(a); 2015-205, s. 5; 2019-178, s. 4(a)-(c); 2020-50, s. 1(a)-(c).)'

L & M Gas Co. v. Leggett, 273 N.C. 547, 550-52, 161 S.E.2d 23 (1968) ('The nature of the estate is such that the estate cannot be subjected to execution to satisfy a judgment taken against the husband or the wife alone'); its rule allocating the rents to the husband alone was displaced by the 1982 equalization act, held constitutional and applicable to pre-1983 estates in Perry v. Perry, 80 N.C. App. 169 (1986)

## Oklahoma

Okla. Stat. tit. 60, § 74 (recognizing estates by entirety in real and personal property), final paragraph ('Nothing herein contained shall prevent execution, levy and sale of the interest of the judgment debtor in such estates and such sale shall constitute a severance.')

## Oregon

Or. Rev. Stat. § 93.180(1)(b) (a conveyance or devise of real property to spouses married to each other creates a tenancy by the entirety by default, an express contrary declaration in the instrument controlling; amended through 2015 c. 629)

Brownley v. Lincoln County, 218 Or. 7, 11-12, 343 P.2d 529 (1959) ('each is regarded as the separate owner of one half the rents and profits and each spouse has the power to convey or encumber the whole title subject to the right of survivorship in the other spouse'; 'if one spouse conveys or encumbers his interest in the estate the grantee or encumbrancer has a right during coverture only to the grantor's share of the rents and profits'; 'The same results obtain where the interest claimed by a third person in the estate of one spouse was acquired, not by voluntary conveyance, but by the legal devices available to creditors for reaching the interest of a debtor spouse.')

Brownley, 218 Or. at 16-18 (Oregon is one of four states in which 'the transition away from the traditional form of the tenancy by the entireties has gone furthest'; held, the docketed judgment lien against the husband followed his interest into the tenancy in common created by the divorce, and the non-debtor wife took the awarded land subject to it)

Or. Rev. Stat. § 130.518(1)-(2) (trust conveyances on or after January 1, 2022 keep only 'the same immunity ... as would exist if the spouses had continued to hold the property as tenants by the entirety'); Or. Rev. Stat. §§ 91.020, 91.030 (naming the estate among seven tenancies, without creating or defining it)

## Pennsylvania

Madden v. Gosztonyi Savings & Trust Co., 331 Pa. 476, 482, 484-86, 200 A. 624 (1938) (entireties differs from joint tenancy 'in that neither one has any individual portion which can be alienated or separated, or which can be reached by the creditors of either spouse'; 'There can be no question that personal property in Pennsylvania may be held by husband and wife by the entireties'; 'bank deposits and similar choses in action ... are tenancies by the entireties')

## Rhode Island

R.I. Gen. Laws § 34-11-3 (the conveyancing enabler)

Cull v. Vadnais, 122 R.I. 249, 255-58, 406 A.2d 1241 (1979) ('Tenancies by the entirety, as they were known at common law, are recognized in Rhode Island'; describing Bloomfield v. Brown, 67 R.I. 452, 25 A.2d 354 (1942), 'an estate held by the entirety is not subject to levy and sale on an execution based upon a judgment against the husband alone'; holding 'a spouse's interest in real property held by the entirety is legally sufficient to sustain a prejudgment attachment')

Cull, 122 R.I. at 256 ('The extent to which a tenancy by the entirety is subject to the claim of creditors of only one of the spouses is only partially settled in this jurisdiction'); the plaintiffs' attachment of a bank account was pleaded but not reached (fn.1)

## Tennessee

Tenn. Code Ann. § 66-1-109 ('Any married person owning property or any interest therein in such person's own name, desiring to convert such person's interest in such property into an estate by the entireties with such person's spouse, may do so by direct conveyance to such spouse'), Acts 1949, ch. 255, § 1; the section's Notes to Decisions record Oliphant v. McAmis, 197 Tenn. 367, 273 S.W.2d 151 (1954), that it does not govern personal property

Griffin v. Prince, 632 S.W.2d 532, 535-37 (Tenn. 1982) (an individual creditor of the husband garnished joint checking and savings accounts; the Tennessee Supreme Court reversed both courts below and directed the garnishment be dismissed) ('It is well settled in this state that personal property as well as realty may be owned by spouses by the entirety'; 'joint property of spouses will be deemed to be so held in the absence of proof to the contrary'; 'substantial immunity of marital assets from individual creditors of a spouse')

In re Arango, 992 F.2d 611, 613 (6th Cir. 1993) ('a creditor of only one spouse may execute a judgment against only that spouse's right of survivorship but not against the spouse's present possessory interest'), citing Third National Bank v. Knobler, 789 S.W.2d 254, 255 (Tenn. 1990) and Robinson v. Trousdale County, 516 S.W.2d 626, 632 (Tenn. 1974)

Tenn. Code Ann. § 35-15-510 ('Immunity from claims of separate creditors of trust property conveyed to trustee by husband and wife as tenants by the entirety')

## Vermont

Vt. Stat. Ann. tit. 27, § 349(a)(2) (naming the estate)

RBS Citizens, N.A. v. Ouhrabka, 2011 VT 86, 190 Vt. 251, 30 A.3d 1266, paras. 9-13 (a prejudgment writ of attachment sought against Vermont real estate held by the debtor and his wife as tenants by the entirety was denied below and the denial affirmed) ('We conclude the theoretical basis of tenancy by entireties remains intact and that the estate enjoys continued validity in Vermont'; '[t]he estate of the wife and the husband's interest in her tenancy by the entirety, if validly created, is protected from the husband's sole creditors', quoting Rose v. Morrell, 128 Vt. 110, 112, 259 A.2d 8 (1969); 'Our past decisions do not distinguish voluntary conveyances of tenancy by entirety property from involuntary attachments')

Ouhrabka, 2011 VT 86, para. 13 (a transfer into entireties to evade creditors can be attacked as fraud under 12 V.S.A. § 2808, but 'if the asset was held in a tenancy by entirety before the issuance of the debt, an action for fraud would not lie')

In re Pauquette, 38 B.R. 170, 173 (Bankr. D. Vt. 1984), quoting Kennedy v. Rutter, 110 Vt. 332, 340, 6 A.2d 17 (1939) ('Vermont recognizes the estate by the entirety in its traditional form'), citing Pettengill v. United States, 205 F. Supp. 10, 13 (D. Vt. 1962)

## Virginia

Va. Code Ann. § 55.1-136(A) ('Spouses may own real or personal property as tenants by the entirety for as long as they are married. Personal property may be owned as tenants by the entirety whether or not the personal property represents the proceeds of the sale of real property.'); credit line '2001, c. 718, § 55-20.2; 2006, c. 281; 2015, c. 424; 2017, c. 38; 2019, c. 712'

Vasilion v. Vasilion, 192 Va. 735, 740, 66 S.E.2d 599 (1951) ('where a tenancy by the entirety in the fee simple is once created the property is completely immune from the claims of creditors against either husband or wife alone')

Oliver v. Givens, 204 Va. 123, 126-27, 129 S.E.2d 661 (1963) ('we agree with the reasoning of the majority view and hold that in this State personal property as well as realty may be held by a husband and wife as tenants by the entireties'; the proceeds of a sale of entireties realty 'were likewise owned and held by them as tenants by the entireties. That being so, the husband's interest therein was free of or immune from the claims of his creditors.')

Va. Code Ann. § 55.1-136(C) (trust immunity, waivable by the trustee under an express trust provision or with both spouses' written consent); § 55.1-135, para. 2 (moieties are the default for a conveyance to spouses unless entireties language is used)

## Wyoming

Wyo. Stat. Ann. § 34-1-140(a) ('A joint tenancy or a tenancy by the entirety as to any interest in real or personal property may be established by the owner thereof, by designating in the instrument of conveyance or transfer, the names of such joint tenants or tenants by the entirety, including his own.'); § 34-1-140(b) (the spousal-language presumption reaches an instrument of conveyance or transfer of real property only)

Wyo. Stat. Ann. § 34-14-202 (entireties property is an asset only 'to the extent it is not subject to process by a creditor holding a claim against only one (1) tenant')

Lurie v. Blackwell, 2002 WY 110, para. 13 and n.3, 51 P.3d 846, 850-51 (Wyo. 2002) ('Neither Wyoming nor Missouri law allows a judgment creditor to seize property held by a husband and wife as tenants by the entirety to satisfy the individual debts of one of the spouses'), citing Colorado National Bank v. Miles, 711 P.2d 390, 393-94 (Wyo. 1985); n.3 ('Wyoming recognizes tenancies by the entirety in real or personal property')

Oatts v. Jorgenson, 821 P.2d 108, 114 (Wyo. 1991) (absent 'an express, clear manifestation of the intention ... on the face of the instrument, a tenancy in common will be presumed'); Wyo. Stat. Ann. § 4-10-402 (the trust provision)

## Ohio, the prospective repeal

Central Benefits Mutual Insurance Co. v. RIS Administrators Agency, Inc., 70 Ohio St. 3d 68, 70 and n.1 (1994) (former R.C. 5302.17 created an estate by the entireties in Ohio, and before its enactment estates by the entireties were not recognized there; Sub. S.B. No. 201 enacted the current version of R.C. 5302.17 and 'replaced the tenancy by the entireties with a survivorship tenancy', and also enacted R.C. 5302.21, 'which provides that tenancies by the entireties created under former R.C. 5302.17 continue to be valid')

Central Benefits, 70 Ohio St. 3d at 71-72 ('in order to create an estate by the entireties, the intention must be spelled out by using the language "estate by the entireties," together with the language of survivorship'; 'the only thing that distinguishes former R.C. 5302.17, which created an estate by the entireties, from the present day R.C. 5302.17, which creates a joint tenancy with right of survivorship, is the title "Estate by the Entireties with Survivorship Deed"')

Ohio Rev. Code § 5302.21(A) (entireties created under former R.C. 5302.17 continue to be valid); § 5302.20(C)(4)-(5) (the replacement survivorship tenancy)

## States that do not recognize the estate

Community property, the estate never adopted: Arizona (Ariz. Rev. Stat. § 25-215(D)), California (Cal. Fam. Code § 910(a)), Idaho, Louisiana (La. Civ. Code art. 2345), Nevada, New Mexico (N.M. Stat. § 40-3-10(A), the separate-debt rule, and §§ 40-3-10(B), 40-3-11(B), the marital-residence shield), Texas (Tex. Fam. Code § 3.202(a)-(d)), Washington, and Wisconsin (Wis. Stat. § 766.55(2)(b))

Abolished or statutorily converted: Colo. Rev. Stat. § 38-31-201 ('No conveyance of real property located in this state executed before or after July 1, 2006, shall create a tenancy by the entirety'); Conn. Gen. Stat. § 47-14a; 33 M.R.S. § 159; N.H. Rev. Stat. § 477:18; Utah Code § 57-1-5(7) ('Tenants by the entirety are considered to be joint tenants'); W. Va. Code § 36-1-20 with Harris v. Crowder, 174 W. Va. 83, 85 (1984); Minn. Stat. § 500.19, subd. 2 with Wilson v. Wilson, 43 Minn. 398, 399 (1890); Davis v. Davis, 223 S.C. 182, 184-85 (1953)

Never adopted, the statutory taxonomy of estates omitting it: Alabama, Georgia (O.C.G.A. § 44-6-190(a)(2); In re Watford, 427 B.R. 552), Iowa (Iowa Code § 557.15), Kansas (Kan. Stat. Ann. § 58-501), Montana (Mont. Code Ann. § 72-6-216(2)), Nebraska, North Dakota (N.D. Cent. Code §§ 47-02-05, -06, -08), and South Dakota (S.D. Codified Laws § 43-2-11)

Alabama, what a married couple gets instead: Ala. Code § 35-4-7 (survivorship between joint tenants only where 'it is stated in the instrument creating such tenancy that such tenancy is with right of survivorship or other words used therein showing such intention'); Nunn v. Keith, 289 Ala. 518, 268 So. 2d 792, 797 (1972) ('We further hold that such estate is destructible as at common law'); First National Bank of Birmingham v. Lawrence, 212 Ala. 45, 46, 101 So. 663 (1924) (the tenancy-in-common default)

Alabama, the creditor route: Ala. Code § 6-9-40(1) (execution on real property in which the defendant 'has a vested legal interest in possession, reversion, or remainder, whether he has the entire estate or is entitled to it in common with others'); Ala. Code § 35-6-20 (the circuit court may 'divide or partition, or sell for partition, any property, real or personal, held by joint owners or tenants in common')

## Federal law

- United States v. Craft, 535 U.S. 274 (2002) (state law fixes a spouse's rights in the property and federal law decides whether those rights are property the lien can reach); at 288-89 (exempt status under state law does not bind the federal collector); at 285 (whether a right of survivorship standing alone is property under 26 U.S.C. § 6321 expressly left open); at 289 (no view expressed on valuation of the entireties interest). The case concerned real property
- 26 U.S.C. § 6321 (the lien reaches 'all property and rights to property, whether real or personal')
- United States v. Rodgers, 461 U.S. 677, 680, 697-99, 710-11 (1983) (26 U.S.C. § 7403 grants the power to order a sale, 'but ... its exercise is limited to some degree by equitable discretion'; the non-delinquent spouse takes complete compensation out of the proceeds; the equitable-discretion factors include prejudice to the third party). Rodgers construes the Texas homestead estate, and the value of an entireties spouse's share is a state-law question it does not answer
- In re Sinnreich, 391 F.3d 1295, 1296-98 (11th Cir. 2004) (Craft was 'based on the unique powers granted to the IRS under federal law' and 'gave no indication that its holding could be extended beyond a tax collection context'); Gibson v. Wells Fargo Bank, N.A., 255 So. 3d 944 (Fla. 2d DCA 2018)
- 11 U.S.C. § 522(b)(3)(B) (exempting 'any interest in property in which the debtor had, immediately before the commencement of the case, an interest as a tenant by the entirety or joint tenant to the extent that such interest as a tenant by the entirety or joint tenant is exempt from process under applicable nonbankruptcy law'); pre-BAPCPA opinions, including In re Pauquette, In re Arango and In re McNeilly, cite the provision by its former number, § 522(b)(2)(B)
- McNeilly v. Geremia (In re McNeilly), 249 B.R. 576, 580-81, 583-85 and n.19 (B.A.P. 1st Cir. 2000) (the 'applicable nonbankruptcy law' is keyed to 'the situs of the asset that is held by a debtor in bankruptcy as a tenant by the entireties', quoting In re Cochrane, 178 B.R. 1011, 1020 (Bankr. D. Minn. 1995), which called the law of the debtor's domicile irrelevant; the panel reversed because the trustee failed his Fed. R. Bankr. P. 4003(c) burden, and reserved at n.19 whether the debtor's pre-bankruptcy shift of funds was vulnerable as a fraudulent transfer)
- In re Weiss, 638 B.R. 543, 549-61 (Bankr. D.N.J. 2022), adopted and affirmed in In re Deshmukh, No. 25-17615 (D.N.J. Aug. 10, 2026) (a New Jersey debtor's entireties interest is not exempt under § 522(b)(3)(B), because the right of survivorship is alienable and subject to levy and so is not exempt from process under New Jersey law)

The full chart and its analysis are on alperlaw.com.