

381.130 Exceptions to KRS 381.120.

- (1) KRS 381.120 shall not apply to any estate which joint tenants hold as executors or trustees, nor, except as provided in subsection (2) of this section, to an estate conveyed or devised to persons in their own right, when it manifestly appears, from the tenor of the instrument, that it was intended that the part of the one dying should belong to the others, neither shall it affect the mode of proceeding on any joint contract or judgment.
- (2)
 - (a)
 1. Except as provided in paragraph (b) of this subsection, one (1) or more joint tenants of real property may partition their interest in the real property during their lifetime by deed or other instrument.
 2. The deed or other instrument shall express the intent of the joint tenant to partition the joint tenant's interest in the real property and shall be recorded at the office of the county clerk in the county where the real property or any portion of the real property is located.
 3. The partitioning shall be effective at the time the deed or other instrument is recorded.
 - (b) Residential real property that is owned exclusively by husband and wife as joint tenants with a right of survivorship and actually occupied by them as a principal residence shall not be partitioned as provided in paragraph (a) of this subsection.
 - (c) The deed or other instrument shall convert the partitioning joint tenant's interest in the real property into a tenancy in common with the remaining joint tenants. If there are two (2) or more nonpartitioning joint tenants, the interests of the nonpartitioning joint tenants in relation to each other shall be governed pursuant to the terms of the instrument creating the interest.

Effective: July 15, 1998

History: Amended 1998 Ky. Acts ch. 267, sec. 2, effective July 15, 1998. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 2349.