

STATEMENT OF PURPOSE

RS24221

Although Idaho now has Community Property With Right of Survivorship for both real estate and non-real estate assets, many financial institutions have not authorized the CPWROS option for ownership of accounts in Idaho, instead only offering Joint Tenancy With Right of Survivorship. This can cause problems for basis step-up at the first death of a married couple, since Community Property receives a stepped up basis on both halves of the asset, while Joint Tenancy property receives a step up on only half of the property. This unfairly penalizes couples who have community property but cannot properly designate their account. This bill solves that problem by stating the community property does not lose its community property status by being deposited into an account, however entitled. This also covers the situation where only the name of one spouse is on the account but the property deposited was community. The parties can always agree, including through pre or post-nuptial agreements, to different treatment of accounts in a single name. This bill simply sets the default provision absent such agreement. The second part of the bill makes it clear a right of survivorship arising from a CPWROS designation on an account cannot be changed by Will. Instead, if a change is needed, the change must be made at the financial institution level. The CPWROS statute previously enacted also has provisions for proper methods of revoking survivorship by either party. This bill clarifies some existing questions in the law and conforms to the general practice in the State for the questions addressed.

FISCAL NOTE

This bill will have no fiscal impact.

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