AN ACT CONCERNING THE PRESUMPTION OF OWNERSHIP IN JOINT BANK ACCOUNTS.

SUMMARY

This bill decreases the evidentiary standard used for determining when ownership of a joint account at a bank or credit union would not vest to the surviving account owners.

By law, there is a rebuttable presumption that creating a joint account is evidence of intent by the person creating the account to have it vest, if he or she dies, to the other account holder.

Current law requires someone challenging the survivor’s right to account ownership to show clear and convincing contrary evidence or that there was fraud or undue influence. Once the evidence is presented, the surviving account holder must prove otherwise by the same “clear and convincing” standard. The bill replaces the clear and convincing evidentiary standard with preponderance of the evidence, which is a lower legal standard.

A “preponderance of the evidence” means that it is more likely than not that the facts asserted are true. It is the burden of proof in most civil trials. “Clear and convincing” means that it is highly probable or reasonably certain. Clear and convincing is a greater burden of proof than preponderance of the evidence, but less than evidence beyond a reasonable doubt, which is the standard in criminal trials (Black’s Law Dictionary, 11th ed.).

EFFECTIVE DATE: October 1, 2021

COMMITTEE ACTION

Banking Committee
Joint Favorable
Yea 18 Nay 0 (02/23/2021)