

## STATEMENT OF PURPOSE

RS32454 / H0282

Idaho has a set of exemptions, consisting of a series of different statutes, which protect equity in certain pieces of property. These exemptions apply when (1) judgment creditors seek to satisfy their judgments from a judgment debtor's assets, and (2) in bankruptcy cases which are filed in the District of Idaho because Idaho has opted out of the federal exemptions. Every exemption in Idaho can be claimed by an unmarried debtor. However, the same is not true for married debtors. Currently, Idaho's existing homestead statute requires married debtors to share a homestead exemption, whereas unmarried debtors can claim the entirety of their homestead exemption. This proposed bill eliminates the marriage penalty contained in I.C. 55-1002 for married debtors by eliminating the language requiring married debtors to share the homestead exemption and replacing it with language that explicitly states that the homestead exemption may be separately claimed by each married spouse. This bill also proposes a modification to I.C. 55-1008 to specifically state that the reinvestment requirement contained within the statute does apply in bankruptcy cases. This explicit language is necessary in light of the 9th Circuit's holding *McCallister v. Wells* which held that under current 9th Circuit precedent, when a homestead statute contains a reinvestment requirement, that requirement applies to sales of real estate in a bankruptcy case after the petition date. Debtors who file bankruptcy cases cannot qualify for mortgages for a period of 2-3 years after they file because of the bankruptcy filing on their credit reports and thus cannot realistically re-invest the proceeds of their homestead within a 1-year period. Therefore, this bill proposes to eliminate that reinvestment requirement for that narrow category of debtors who file bankruptcy cases.

## FISCAL NOTE

This legislation does not result in additional expenditure of funds at the state or local level, nor does it lead to an increase or decrease in revenue for state or local government, therefore it has no fiscal impact.

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**DISCLAIMER:** This statement of purpose and fiscal note are a mere attachment to this bill and prepared by a proponent of the bill. It is neither intended as an expression of legislative intent nor intended for any use outside of the legislative process, including judicial review (Joint Rule 18).