

NEWS RELEASE

Estate Attorney Merrell Bailey Calls on Same-Sex Married Couples in Florida to Take Action Now Regarding Joint Ownership of Property

In the wake of the recent ruling recognizing same-sex marriages in Florida, same-sex couples immediately should retitle their joint assets in order to receive the same asset protection as heterosexual married couples.

Orlando, FL, Jan. 6, 2015 – Estate attorney Mary Merrell Bailey today issued a call to action to same-sex married couples to take steps immediately to retitle their joint assets in light of the federal court ruling recognizing same-sex unions. Now that same-sex marriages are legally recognized in the state of Florida, same-sex couples who jointly own property should take action without delay in order to receive the protections afforded to married couples under the “Tenants by the Entireties” (TBE) form of ownership.

“If your marriage wasn’t recognized by Florida when you took title to your real estate, then you should sign a new deed, making it clear that you and your spouse intend to own the property as “Tenants by the Entireties,” stated Bailey. “Even if both your and your spouse’s names already are on the deed, now that your marriage is recognized, you must retitle the property into both your names to reap the benefit and protections under the TBE law. This particularly is important if the title previously was held by you as “Joint Tenants with Rights of Survivorship,” (JTROS), which often was the recommended ownership for same-sex couples when your marriage was not recognized.”

Bailey further explained that the law for personal property, including bank or brokerage accounts and other investments, is not as clear. She cautioned that in order to create the strongest evidence to show intent to hold the accounts as TBE, married couples should open up new accounts or issue new stock certificates altogether, clearly indicating on the custodian’s records that the couple is choosing TBE ownership.

Unlike JTROS property, title to TBE property generally protects both parties from an individual spouse’s creditors seeking to attach the assets. For example, Bailey noted that if one spouse injures a third party in a car accident, the injured party likely will not be able to take the TBE brokerage account in a lawsuit. Because title to TBE property may not be divided (or attached by creditors) on behalf of one spouse without the agreement of the other, it allows married couples asset protection not available to unmarried couples.

“There are nuances to TBE ownership and its protections as it relates to comprehensive estate planning, so it’s best to consult with your attorney to determine if assets should be retitled,” said Bailey. “And, it’s equally important to consult your financial advisor about opening new bank and brokerage accounts in light of the new protections now available.”

Bailey is scheduled to speak on this topic on Friday, January 30, 2015 to the Central Florida Gay & Lesbian Law Association (CFGALLA.org). Details regarding the event, which is open to the public, will be forthcoming. Those interested in attending should monitor Bailey’s website for location and time.

About Mary Merrell Bailey, Esq., Founder of Your Caring Law Firm

Your Caring Law Firm is a boutique law firm founded by Mary Merrell Bailey Esq. CPA MBA MSTaxation MSAccounting, and Hallie Zobel, Esq. Located in Maitland, FL, a suburb of Orlando, the firm offers probate, wills, trusts, guardianship, and estate planning services to clients throughout the Central Florida region. With deep roots in the community, Your Caring Law Firm prides itself on its ability to deliver a rare combination of sophisticated legal advice that draws upon sound business, tax and accounting knowledge, while providing a caring, attentive environment for clients to make some of the most important decisions of their lives. For more information, visit www.YourCaringLawFirm.com.