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House Bill 81 – Vehicles/Boats: Transfer on Death Title

Sectional Analysis

Section 1:

Adds a new section under AS 05.25 that allows owners of boats, for which the Department of Administration (DoA) issues titles, to obtain a transfer on death (TOD) title.

Section 2:

Amends AS 13.33.101(a) to add a transfer of a boat or vehicle by a TOD title to the existing list of acceptable nonprobate transferable property.

Section 3:

Creates a provision under AS 13.33 for a transfer on death (TOD) title for boats and vehicles. Creates and defines the mechanism through the Division of Motor Vehicles (DMV), by which individuals will obtain, revoke, or change their transfer on death title and defines the parameters of the transfer on death title.

(a)-(c) Obtaining a TOD Title

- Creates a provision under AS 13.33 for a transfer on death title for vehicles and boats for which DoA issues titles.
 - This includes some manufactured homes for which the DMV issues titles under AS 45.29.102(66). These homes are without a permanent foundation and transportable in one or more sections.
- Requires that the transfer of title to the designated beneficiary occurs when the sole owner or last surviving joint owner of the vehicle dies.
- Requires that owners of the boats or vehicles file a form through the DMV and pay associated fees to apply for a TOD title.
- Limits the TOD titles to two beneficiaries.

(d) TOD titles effective without notice or consideration

- Provides that TOD titles will not require notice or acceptance by the designated beneficiary.
- Provides that TOD titles will not be subject to consideration, the process by which there is an exchange or “quid pro quo” required from the recipient of the assets.
 - *Language taken from TOD deed statute under AS 13.48.060.*

(e) TOD titles are nontestamentary

- States that TOD titles are nontestamentary, meaning that the associated vehicles do not need to be provided for in the decedents will.

(f)-(g) Revocation or Change to TOD titles

- Provides that the owner may revoke or change the designated beneficiary on the TOD at any time without the beneficiary’s consent.
- Explains the process by which owners may revoke or change a TOD title.
 - The owner can either assign and deliver the certificate of title for the vehicle to another person, thereby revoking the TOD title, or;
 - file with the DMV to reissue the title without a designated beneficiary or with a different designated beneficiary.

(h) Designated beneficiaries right to disclaim interest

- Allows designated beneficiaries to refuse the boat or vehicle designated to them in a TOD title.
 - Language taken from TOD deed statute under AS 13.48.100.

(i) TOD titles subject to decedent’s creditors, contracts, etc.

- Subjects the TOD title to creditor’s claims against the owner’s estate, as well as to other interests, contracts, liens, encumbrances, assignments, and other interests.
- These interests remain attached to the boat or vehicle after it is transferred to the designated beneficiary.

(j-m) Enforcing liability upon TOD titles

- Imposes the same procedures for enforcing liability upon TOD titles that is applied to TOD deeds under AS 13.48.110 and AS 13.48.088.
 - Provides that the estate may enforce liability against boats or vehicles with TOD titles if the owner’s estate does not cover an allowed claim.
- States that if there are multiple vehicles and/or boats, and a liability exists in the deceased’s estate, the liability will be apportioned to each asset in proportion to its net value.
 - Requires that a proceeding to enforce a liability must begin within 12 months of the owner’s passing and can only begin once proper notification to beneficiaries has occurred.
 - Stipulates that TOD titles do not affect rights of ownership before the owner’s death, and do not affect rights of the designated beneficiary or creditors of the owner(s).
 - TOD titles do not give legal or equitable preference to the designated beneficiary.
 - TOD titles do not affect designated beneficiaries’ eligibility for state public assistance.

(n-p) Uniform standard of survivorship, requirements to receive TOD title

- Requires that the designated beneficiary survive the previous owner by 120 hours.
- Requires that the designated beneficiary submit proof of the owner’s death and an application and associated fees to the DMV.
- If there are two beneficiaries listed on the TOD title, they become joint owners.

(q) TOD titles may not be changed by other instruments

- Provides that TOD titles may only be changed by the process outlined in section 3 and not by a will or any other instrument.

(r) Gives the DoA authority to develop regulations to implement the TOD titles, establish necessary forms and fees, etc.

(s) Definitions

Section 4:

Amends AS 13.48.110(c) to add a person acting on behalf of the surviving spouse of the decedent to the list of people who may demand to enforce liability against the decedents' property.

Section 5:

Adds a new section to AS 28.10.275, relating to vehicle titles, to clearly state that owners of vehicles for which the DMV issues titles may obtain a TOD title.

Section 6:

Gives the DoA authority to develop necessary regulations.

Section 7: Applies an immediate effective date to section 5 of the bill to allow the department to develop regulations.

Section 8:

Applies an effective date of July 1, 2024 to the legislation except for sections 5 and 7.