

LEGAL SERVICES

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MEMORANDUM

March 10, 2016

SUBJECT: Sectional summary of proposed CSHB 273(STA) relating to the transfer of the title to a vehicle on the death of the owner (Work Order No. 29-LS0322\J)

TO: Representative Bob Lynn
Attn: Deneen Tuck
JB

FROM: Terry Bannister
Legislative Counsel

You have requested a sectional summary of the above-described bill. As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents.

Bill Section 1. Amends AS 13.33.101(a), which describes transfers on death that are not considered testamentary. Adds a transfer on death (TOD) vehicle title from the new sec. 28.10.275.

Bill Section 2. Amends AS 13.48.110(c) of the Uniform Real Property Transfer on Death Act. The amendment allows a person to act for the surviving spouse of a decedent to make a demand of the personal representative of the decedent's estate to enforce a liability against real property or an interest in real property that the decedent transferred at death by a transfer on death deed.

Bill Section 3. Adds to the chapter that covers motor vehicle titles a new section that authorizes the transfer of a vehicle's certificate of title when the owner dies.

In (a), allows the owner of a vehicle to obtain a transfer on death (TOD) title for the vehicle. A TOD title transfers the vehicle's title to a designated beneficiary when the sole owner or the last surviving joint owner dies.

In (b), to obtain a TOD vehicle title, requires the owner to apply to the Department of Administration (department) on the department's form and to pay the transfer fee. Requires each joint owner to sign an application to obtain, revoke, or change a TOD title.

In (c), requires a TOD title to contain the words "transfer on death to" or "TOD," followed by the names of not more than two designated beneficiaries.

In (d), makes a TOD title effective without any notice to, delivery to, or acceptance by the designated beneficiary, and without consideration.

In (e), states that a TOD title is nontestamentary.

In (f), allows the owner to revoke a TOD title or change the designated beneficiary at any time during the owner's life without the consent of, or notice to, the designated beneficiary.

In (g), indicates how the owner can revoke or change a TOD title.

In (h), allows a designated beneficiary to disclaim the beneficiary's interest under AS 13.70 (Uniform Disclaimer of Property Interests Act).

In (i), states that, except as limited under (j) - (l) of this section, the designated beneficiary takes the TOD title subject to all conveyances, liens, and other interests to which the vehicle is subject at the owner's death, and subject to claims of creditors against the owner or the owner's estate.

In (j), to the extent the owner's probate estate is insufficient to satisfy certain claims, costs, or allowances, allows the estate to enforce the liability against a vehicle transferred at the owner's death by a transfer on death title.

In (k), if more than one vehicle is transferred by transfer on death titles, apportions the liability under (j) of this section among the vehicles.

In (l), requires a proceeding to enforce a liability under (j) of this section to begin not later than 12 months after the owner's death. Requires that a demand be made on the personal representative of the owner's estate by one of the persons identified in this subsection.

In (m), states that, while the owner is alive, the TOD title does not affect certain interests, rights, and other matters related to the owner, the designated beneficiary, creditors, and public assistance eligibility.

In (n), requires the beneficiary to survive the owner by 120 hours in order for the title to be transferred to the beneficiary. Makes certain exceptions related to (1) the calculation of the augmented estate of a deceased person under AS 13.12.203, (2) the effect of homicide under AS 13.12.803, and (3) the effect of divorce, annulment, and other changes of circumstances under AS 13.12.804.

In (o), sets up the criteria for when the department is required to issue a new certificate of title to the designated beneficiary after the owner's death.

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In (p), indicates that if the designated beneficiary who obtains the vehicle title under (o) of this section consists of more than one person, the persons take the title as joint tenants with the right of survivorship. Requires the department to issue the new title in the conjunctive.

In (q), prohibits a TOD title from being changed or revoked by will or another instrument, by a change in circumstances, or in another manner, except as provided in the new section.

In (r), authorizes the department to adopt regulations for the new section.

In (s), defines terms for the new section.

Bill Section 4. Authorizes the department to adopt regulations for the new section.

Bill Section 5. Gives bill sec. 4 an immediate effective date.

Bill Section 6. Gives bill secs. 1- 3 an effective date of July 1, 2017.

If I may be of further assistance, please advise.

TLB:lem:dla
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