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Bannister
3/10/16

CS FOR HOUSE BILL NO. 273(STA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - SECOND SESSION

BY THE HOUSE STATE AFFAIRS COMMITTEE

Offered:
Referred:

Sponsor(s): HOUSE STATE AFFAIRS COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the transfer of the title to a vehicle, including certain manufactured
2 homes and trailers, on the death of the owner; allowing a person to act for the surviving
3 spouse of a decedent to make a demand of the personal representative of the decedent's
4 estate related to enforcing a liability against real property or an interest in real property
5 transferred at death by a transfer on death deed; and providing for an effective date."

6 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

7 * **Section 1.** AS 13.33.101(a) is amended to read:

8 (a) A provision for a nonprobate transfer on death in an insurance policy,
9 contract of employment, bond, mortgage, promissory note, certificated or
10 uncertificated security, account agreement, custodial agreement, deposit agreement,
11 compensation plan, pension plan, individual retirement plan, employee benefit plan,
12 trust, conveyance, deed of gift, marital property agreement, or other written instrument
13 of a similar nature is nontestamentary. This subsection includes [A WRITTEN

PROVISION THAT]

(1) **a written provision that**

(A) money or other benefits due to, controlled by, or owned by a decedent before death must be paid after the decedent's death to a person whom the decedent designates either in the instrument or in a separate writing, including a will, executed either before or at the same time as the instrument, or later;

(B) [(2)] money due or to become due under the instrument ceases to be payable in the event of death of the promisee or the promisor before payment or demand; or

(C) [(3)] property controlled by or owned by the decedent before death that is the subject of the instrument passes to a person the decedent designates either in the instrument or in a separate writing, including a will, executed either before or at the same time as the instrument, or later;
and

(2) a transfer of a vehicle by a transfer on death title under AS 28.10.275.

* **Sec. 2.** AS 13.48.110(c) is amended to read:

(c) A proceeding to enforce the liability under this section must be commenced not later than 12 months after the transferor's death. A proceeding to enforce the liability under (a) of this section may not be commenced unless the personal representative of the transferor's estate has received a written demand by the surviving spouse, a creditor, a child, or a person acting for a child **or the surviving spouse** of the decedent.

* **Sec. 3.** AS 28.10 is amended by adding a new section to read:

Sec. 28.10.275. Transfer of certificate of title on death. (a) In addition to the transfer of a vehicle provided by AS 28.10.211, 28.10.271, or another statute, the owner of a vehicle for which the department is required or allowed under AS 28.10.201 to issue a certificate of title may obtain a transfer on death title for the vehicle. A transfer on death title transfers the title to a designated beneficiary when the sole owner or the last surviving joint owner dies.

(b) To obtain a transfer on death title for a vehicle, the owner of the vehicle shall submit to the department an application on a form established by the department and a fee for the transfer on death title. Each joint owner shall sign the application to obtain, revoke, or change a transfer on death title.

(c) In addition to the requirements of AS 28.10.231 for the contents of a certificate of title, a transfer on death title must contain the words "transfer on death to" or the abbreviation "TOD," followed by the names of not more than two designated beneficiaries.

(d) A transfer on death title obtained under this section is effective without
(1) notice to, delivery to, or acceptance by the designated beneficiary;
or

(2) consideration.

(e) A transfer on death title is a nontestamentary transfer on death.

(f) The owner may revoke a transfer on death title or change the designated beneficiary on a transfer on death title at any time during the owner's life without the consent of or notice to the designated beneficiary.

(g) To revoke or change a transfer on death title, the owner shall

(1) transfer the vehicle to another person and assign and deliver the certificate of title for the vehicle to the other person; or

(2) file with the department an application on a form established by the department and pay a fee to the department to reissue the certificate of title for the vehicle without a designated beneficiary or with a different designated beneficiary.

(h) A designated beneficiary may disclaim the designated beneficiary's interest in the vehicle under AS 13.70 (Uniform Disclaimer of Property Interests Act).

(i) Except as limited under (j) - (l) of this section, a designated beneficiary takes the transfer on death title subject to the

(1) conveyances, encumbrances, assignments, contracts, liens, and other interests to which the vehicle is subject at the owner's death; and

(2) claims of creditors against the owner or the owner's estate.

(j) To the extent the owner's probate estate is insufficient to satisfy an allowed claim against the estate, the costs of administration of the estate, or a statutory

allowance to a surviving spouse or child, the estate may enforce the liability against a vehicle transferred at the owner's death by a transfer on death title.

(k) If more than one vehicle is transferred by one or more transfer on death titles, the liability under (j) of this section is apportioned among the vehicles in proportion to the net values of the vehicles at the owner's death.

(l) A proceeding to enforce a liability under (j) of this section shall begin not later than 12 months after the owner's death. A proceeding to enforce a liability under (j) of this section may not begin unless the personal representative of the owner's estate has received a written demand by the surviving spouse, a creditor, a child of the decedent, or a person acting for a child or the surviving spouse of the decedent.

(m) During the life of the owner, a transfer on death title does not

(1) affect an interest or right of the sole owner or a joint owner of the vehicle, including the right to transfer or encumber the vehicle;

(2) affect an interest or right of the designated beneficiary, even if the designated beneficiary has actual or constructive notice of the transfer on death title;

(3) affect an interest or right of a secured or unsecured creditor or future creditor of the sole owner or a joint owner, even if the creditor has actual or constructive notice of the transfer on death title;

(4) affect the eligibility of the sole owner, a joint owner, or a designated beneficiary for any form of public assistance;

(5) create a legal or equitable interest in favor of the designated beneficiary; or

(6) subject the vehicle to the claims or service of process of a creditor of the designated beneficiary.

(n) Except as otherwise provided in this section or in AS 13.12.203, 13.12.803, or 13.12.804, on the death of the owner, the title to the vehicle is transferred to the designated beneficiary, if the designated beneficiary survives the owner by 120 hours.

(o) The department shall issue a new certificate of title for a vehicle to the designated beneficiary after the death of the owner if the designated beneficiary otherwise satisfies this section and submits

(1) proof of the death of the owner by providing a death certificate, another official record of the death, or other evidence of the death that is satisfactory to the department; and

(2) an application on a form established by the department and pays a fee to the department for the certificate of title.

(p) If a designated beneficiary obtains the title to a vehicle under (o) of this section and if the designated beneficiary consists of more than one person, the persons hold the title as joint tenants with the right of survivorship. Notwithstanding AS 28.10.201(c), the department shall issue the new title in the conjunctive.

(q) Except as provided in this section, a transfer on death title may not be changed or revoked by will or another instrument, by a change in circumstances, or in any other manner.

(r) The department may adopt regulations under AS 44.62 (Administrative Procedure Act) to implement this section, including regulations establishing the forms to be used under this section and the fees to be paid.

(s) In this section,

(1) "designated beneficiary" means a person to whom a vehicle title is transferred by a transfer on death title;

(2) "joint owner" means an individual who owns a vehicle with one or more other individuals as joint tenants with a right of survivorship or as tenants by the entirety;

(3) "owner" means

(A) the sole owner; or

(B) all joint owners;

(4) "person" includes a corporation, company, partnership, firm, association, organization, trust, business trust, or society, as well as a natural person;

(5) "sole owner" means an individual who is the only person who owns the vehicle;

(6) "transfer on death title" means a certificate of title obtained under (a) of this section that transfers the title of a vehicle to a designated beneficiary when the owner dies;

(7) "vehicle" means a vehicle for which the department is required or allowed to issue a certificate of title under AS 28.10.201.

* **Sec. 4.** The uncodified law of the State of Alaska is amended by adding a new section to read:

TRANSITION: REGULATIONS. The Department of Administration may adopt regulations necessary to implement AS 28.10.275, enacted by sec. 3 of this Act. The regulations take effect under AS 44.62 (Administrative Procedure Act), but not before the effective date of sec. 3 of this Act.

* **Sec. 5.** Section 4 of this Act takes effect immediately under AS 01.10.070(c).

* **Sec. 6.** Sections 1 - 3 of this Act take effect July 1, 2017.