

CS FOR HOUSE BILL NO. 110(STA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-FIRST LEGISLATURE - FIRST SESSION

BY THE HOUSE STATE AFFAIRS COMMITTEE

Offered: 4/24/19

Referred: Judiciary

Sponsor(s): REPRESENTATIVE SPOHNHOLZ

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the transfer of a title to a boat on the death of the owner; relating to**
2 **the transfer of a title to a vehicle, including certain manufactured homes and trailers, on**
3 **the death of the owner; allowing a person to act for the surviving spouse of a decedent to**
4 **enforce liability against real property transferred at death; relating to changes of**
5 **address; and providing for an effective date."**

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

7 * **Section 1.** AS 05.25 is amended by adding a new section to read:

8 **Sec. 05.25.058. Transfer of certificate of title on death.** The owner of a boat
9 for which the Department of Administration is required or allowed to issue a
10 certificate of title under this chapter may obtain a transfer on death title for the boat
11 under AS 13.33.401.

12 * **Sec. 2.** AS 13.33.101(a) is amended to read:

13 (a) A provision for a nonprobate transfer on death in an insurance policy,

1 contract of employment, bond, mortgage, promissory note, certificated or
 2 uncertificated security, account agreement, custodial agreement, deposit agreement,
 3 compensation plan, pension plan, individual retirement plan, employee benefit plan,
 4 trust, conveyance, deed of gift, marital property agreement, or other written instrument
 5 of a similar nature is nontestamentary. This subsection includes

6 **(1)** a written provision that

7 **(A)** [(1)] money or other benefits due to, controlled by, or
 8 owned by a decedent before death must be paid after the decedent's death to a
 9 person whom the decedent designates either in the instrument or in a separate
 10 writing, including a will, executed either before or at the same time as the
 11 instrument, or later;

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

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

19 **and**

20 **(2) a transfer of a boat or vehicle by a transfer on death title under**
 21 **AS 13.33.401.**

22 * **Sec. 3.** AS 13.33 is amended by adding a new section to read:

23 **Article 4. Transfer of Boat and Vehicle Title on Death.**

24 **Sec. 13.33.401. Transfer of certificate of title on death.** (a) The owner of a
 25 boat or vehicle for which the department is required or allowed to issue a certificate of
 26 title may obtain a transfer on death title for the boat or vehicle. A transfer on death
 27 title transfers the title to a designated beneficiary when the sole owner or the last
 28 surviving joint owner dies.

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

1 application to obtain, revoke, or change a transfer on death title.

2 (c) A transfer on death title must contain the words "transfer on death to" or
3 the abbreviation "TOD," followed by the names of not more than two designated
4 beneficiaries.

5 (d) A transfer on death title obtained under this section is effective without

6 (1) notice to, delivery to, or acceptance by the designated beneficiary;
7 or

8 (2) consideration.

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

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

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

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

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

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

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

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

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

27 (j) To the extent the owner's probate estate is insufficient to satisfy an allowed
28 claim against the estate, the costs of administration of the estate, or a statutory
29 allowance to a surviving spouse or child, the estate may enforce the liability against a
30 boat or vehicle transferred at the owner's death by a transfer on death title.

31 (k) If more than one boat or vehicle is transferred by one or more transfer on

1 death titles, the liability under (j) of this section is apportioned among the boats or
2 vehicles in proportion to the net values of the boats or vehicles at the owner's death.

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

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

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

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

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

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

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

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

22 (n) Except as otherwise provided in this section or in AS 13.12.203,
23 13.12.803, or 13.12.804, on the death of the owner, the title to the boat or vehicle is
24 transferred to the designated beneficiary, if the designated beneficiary survives the
25 owner by 120 hours.

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

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

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

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

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

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

13 (s) In this section,

14 (1) "boat" means a boat for which the department is required or
15 allowed to issue a title under AS 05.25.055 or 05.25.056;

16 (2) "department" means Department of Administration;

17 (3) "designated beneficiary" means a person to whom a boat or vehicle
18 title is transferred by a transfer on death title;

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

22 (5) "owner" means

23 (A) the sole owner; or

24 (B) all joint owners;

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

27 (7) "sole owner" means an individual who is the only person who owns
28 the boat or vehicle;

29 (8) "transfer on death title" means a certificate of title obtained under
30 (a) of this section that transfers the title of a boat or vehicle to a designated beneficiary
31 when the owner dies;

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

3 * **Sec. 4.** AS 13.48.110(c) is amended to read:

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

10 * **Sec. 5.** AS 28.05.071 is amended by adding a new subsection to read:

11 (c) A person is not required to notify the appropriate department of a change
12 in mailing address under (a) of this section if the person authorizes the appropriate
13 department to change the person's mailing address automatically to match the current
14 mailing address maintained by the United States Postal Service. A person shall notify
15 the appropriate department under (a) of this section of a change in the person's
16 residence address if the person's residence address is different from the person's
17 mailing address.

18 * **Sec. 6.** AS 28.10 is amended by adding a new section to read:

19 **Sec. 28.10.275. Transfer of certificate of title on death.** In addition to the
20 transfer of a vehicle provided by AS 28.10.211, 28.10.271, or another statute, the
21 owner of a vehicle for which the department is required or allowed under
22 AS 28.10.201 to issue a certificate of title may obtain a transfer on death title for the
23 vehicle under AS 13.33.401.

24 * **Sec. 7.** The uncodified law of the State of Alaska is amended by adding a new section to
25 read:

26 TRANSITION: REGULATIONS. The Department of Administration may adopt
27 regulations necessary to implement AS 13.33.401, enacted by sec. 3 of this Act. The
28 regulations take effect under AS 44.62 (Administrative Procedure Act), but not before the
29 effective date of sec. 3 of this Act.

30 * **Sec. 8.** Section 7 of this Act takes effect immediately under AS 01.10.070(c).

31 * **Sec. 9.** Except as provided in sec. 8 of this Act, this Act takes effect July 1, 2020.