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DATE: February 21, 2002

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
BUSINESS REGULATION
ANALYSIS**

BILL #: HB 661
RELATING TO: Vehicle Title Certificates
SPONSOR(S): Representative(s) Wiles
TIED BILL(S): None

ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:

- (1) TRANSPORTATION YEAS 11 NAYS 2
 - (2) BUSINESS REGULATION YEAS 9 NAYS 0
 - (3) READY INFRASTRUCTURE COUNCIL
 - (4)
 - (5)
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I. SUMMARY:

THIS DOCUMENT IS NOT INTENDED TO BE USED FOR THE PURPOSE OF CONSTRUING STATUTES, OR TO BE CONSTRUED AS AFFECTING, DEFINING, LIMITING, CONTROLLING, SPECIFYING, CLARIFYING, OR MODIFYING ANY LEGISLATION OR STATUTE.

Current law regulates the handling of vehicles or mobile homes that have been determined to be a "total loss." The owner of such a vehicle or mobile home, or an insurance company that acquires one, may not dispose of the vehicle or mobile home before it has obtained a salvage certificate of title or a certificate of destruction from the Department of Highway Safety and Motor Vehicles.

The bill redefines the term "total loss" to mean a motor vehicle or mobile home that has been damaged, destroyed, wrecked, or submerged in water and the cost to rebuild or reconstruct the vehicle or mobile home exceeds 75 percent of the retail value prior to such damage. The bill also states that a vehicle or mobile home is a "total loss" if an insurance company or self-insurer acquires ownership pursuant to a damage or theft settlement, or if the owner applies for a salvage certificate of title or a certificate of destruction.

This bill does not appear to have a fiscal impact on state or local governments.

On January 30, 2002, the Committee on Transportation adopted a strike everything amendment with an amendment to the amendment. The bill was then reported FAVORABLY, as amended, and the amendment is traveling with the bill.

On February 21, 2002, the Committee on Business Regulation adopted a substitute strike everything amendment to the Transportation Committee amendment. The Business Regulation Committee amendment is also traveling with the bill.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|--|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

Individual Freedom

Under current law, an owner of a motor vehicle or mobile home and an insurance company can negotiate whether to repair or rebuild a vehicle or mobile home if the cost to repair the damage is less than 80 percent of the retail value. If they agree not to repair or replace the vehicle or mobile home, it is deemed a "total loss." The bill eliminates the opportunity for the insurer and owner to negotiate whether a vehicle or mobile home with damage equaling less than 75 percent of the retail value is a "total loss."

B. PRESENT SITUATION:

Current law regulates the handling of vehicles or mobile homes that have been determined to be a "total loss." The owner of such a vehicle or mobile home, or an insurance company that acquires one, may not dispose of the vehicle or mobile home before it has obtained a salvage certificate of title or a certificate of destruction from the Department of Highway Safety and Motor Vehicles (DHSMV).

Whenever the owner of a "total loss" vehicle or mobile home or an insurance company applies for one of these title substitutes, that person must provide to DHSMV an estimate of the cost to repair the damage to the vehicle. If that estimate is equal to 80 percent or more of the "blue book" value of the vehicle or mobile home, DHSMV will declare the vehicle unrebuildable and will issue a certificate of destruction. The certificate authorizes dismantling or destruction of the vehicle. However, if the blue book value of the vehicle is \$1500 or less, the vehicle need not be issued a certificate of destruction, and it can be rebuilt or repaired under clean title. A stolen vehicle recovered in substantially intact condition that can be readily repaired and sold also need not receive a certificate of destruction.

A vehicle or mobile home is considered to be "total loss" when an insurance company pays an owner to replace it because it was wrecked or damaged, or because it was stolen. However, if the insurance company and the owner agree to repair the vehicle or mobile home, it is not a "total loss." An *uninsured* vehicle or mobile home is considered a "total loss" if the cost to repair a wrecked or damaged vehicle or mobile home would exceed 80 percent of the cost to replace it with one of like kind and quality.

C. EFFECT OF PROPOSED CHANGES:

Under the bill, a vehicle or mobile home is considered a "total loss" when it has been damaged, destroyed, wrecked, or submerged in water to the extent that the *estimated or actual* cost to repair it to its pre-damaged condition exceeds 75 percent of the blue book value. The value of repair parts is determined by using the current published retail cost of parts from an original equipment manufacturer or the retail cost of the repair parts actually used in the repair. The labor cost is computed using the hourly rate and time at locations that are reasonable and customary for the particular community's auto repair industry.

The bill provides that a motor vehicle or mobile home is also a "total loss" if an insurer acquires ownership pursuant to a damage or theft settlement, or if the owner applies for a salvage certificate of title or a certificate of destruction.

The bill eliminates the opportunity for the insurer and owner to negotiate whether a vehicle or mobile home with damage equaling less than 75 percent of the retail value is a "total loss."

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Redefines the term "total loss" for motor vehicles and mobile homes.

Section 2. Provides an effective date of July 1, 2002.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to expend funds or to take actions requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that counties or municipalities have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None noted.

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

In addition, under the bill "total loss" means a vehicle or mobile home for which the owner applies for a salvage certificate of title or a certificate of destruction. This appears to be a circular provision in that a "total loss" designation is what triggers the requirement to obtain a certificate of destruction in the first place.

Also, DHSMV points out that under current law, a vehicle must be determined unrebuildable and receive a certificate of destruction when damage to the vehicle equals or exceeds 80 percent of the blue book value of any vehicle valued at more than \$1500. DHSMV recommends that this provision should also be amended to reflect the 75 percent levels stated in the bill.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On January 30, 2002, the Committee on Transportation adopted a strike everything amendment that substantially changes the bill.

The strike everything amendment provides that a vehicle or mobile home is a total loss: when an owner and insurer agree to replace a wrecked or damaged vehicle or mobile home or when they reach a theft settlement; when the cost of repairing a wrecked or damaged vehicle or mobile home is at least 80 percent of the replacement cost. The amendment further provides that a vehicle is not a "total loss" if the owner and insurer agree to repair the vehicle or mobile home. However, the owner must request within 72 hours of the agreement that DHSMV brand the title certificate with the words "Total Loss Vehicle."

The amendment provides that self-insured persons are among the "owners" who are required to forward title to DHSMV for processing when application for a certificate of destruction is necessary.

The amendment provides for an exemption from the provisions of s. 319.30(3), F.S., for vehicles or mobile homes that are at least ten years old. This exemption replaces the existing exemption for vehicles or mobile homes that have a retail value of less than \$1500.

The strike everything amendment further creates s. 319.41, F.S., to require the DHSMV to create a title history database for vehicles to be implemented by July 1, 2003. The amendment requires the program to provide access to information relating to the year, make, model, mileage, date of sales and outstanding liens on motor vehicles. This information is required to be made available on the internet.

The bill was then reported FAVORABLY as amended, and the amendment is traveling with the bill.

On February 21, 2002, the Committee on Business Regulation adopted a substitute strike everything amendment to the Transportation Committee amendment. The amendment differs from the Transportation Committee amendment in the following ways.

The amendment reverts language back to current law relating to an uninsured vehicle or mobile home when calculating percentage of damage for purposes of determining "total loss." (s. 319.30(3)(a)2.)

The amendment continues to allow the repair of a damaged vehicle or mobile home rather than replacement but would not require the title to be branded with the words "Total Loss Vehicle." It further provides that a vehicle or mobile home that requires greater than 100 percent repair costs in relation to value would require branding the title with the words "Total Loss Vehicle." (creates s.319.30(3)(a)3.)

VII. SIGNATURES:

COMMITTEE ON TRANSPORTATION:

Prepared by:

William C. Garner

Staff Director:

Phillip B. Miller

AS REVISED BY THE COMMITTEE ON BUSINESS REGULATION:

Prepared by:

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