

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Appropriations Subcommittee on Transportation, Tourism, and Economic Development

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BILL: CS/SB 164  
INTRODUCER: Transportation Committee and Senators Grimsley and Baxley  
SUBJECT: Certificates of Title for Motor Vehicles  
DATE: March 8, 2017 REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Jones</u>	<u>Miller</u>	<u>TR</u>	<u>Fav/CS</u>
2.	<u>Wells</u>	<u>Pitts</u>	<u>ATD</u>	<u>Pre-meeting</u>
3.	<u>                    </u>	<u>                    </u>	<u>AP</u>	<u>                    </u>

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**Please see Section IX. for Additional Information:**  
COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 164 prohibits the Department of Highway Safety and Motor Vehicles (DHSMV) and tax collectors from charging a surviving spouse any fee or service charge, excluding an expedited title fee, if applicable, for a motor vehicle certificate of title when the title is being issued solely to remove the deceased co-owner from the title.

The bill is expected to reduce, on an annual basis, revenues flowing to the General Revenue Fund by \$222,000; the Highway Safety Operating Trust Fund by \$100,000; and local trust funds by \$19,000.

This bill takes effect July 1, 2017.

**II. Present Situation:**

Most vehicles, with exceptions for mopeds, motorized bicycles, and trailers weighing less than 2,000 pounds, are required to have a certificate of title.<sup>1</sup> A person must apply for a title in his or her name after purchasing a new vehicle, bringing a vehicle into the state, or at any time the ownership of a vehicle changes.<sup>2</sup> A certificate of title is a record that proves ownership of a vehicle and can be a certificate in either paper or electronic form and authorized or stored by the

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<sup>1</sup> DHSMV, *FAQs on Getting a Hassle Free Title*, <http://www.flhsmv.gov/dmv/faqtitle.html> (last visited Jan. 30, 2017).

<sup>2</sup> *Id.*

DHSMV.<sup>3</sup> The application for a certificate of title requires, if applicable, information including, but not limited to, the<sup>4</sup>:

- Owner's, co-owner's, or lessee's names, mailing addresses, dates of birth, and driver license numbers;
- Vehicle identification number;
- Make, manufacturer, year, body, and color of the vehicle;
- Lienholder information; and
- Odometer declaration.

### **Certificate of Title Fees**

Section 319.32, F.S, provides the fees, service charges, and disposition of funds for certificates of title. The DHSMV charges a \$70 fee for each original and duplicate certificate of title, except for motor vehicles for hire<sup>5</sup>, which are \$49, and \$2 for each salvage certificate of title. The DHSMV also charges \$2 to note a lien on the certificate, \$1 to cover the cost of materials, and \$2.50 for shipping and handling. Additionally, there is a \$4.25 service charge for each certificate of title application.

The \$70 fee is distributed between the State Transportation Trust Fund and the General Revenue Fund, excluding \$1 that is deposited into the Highway Safety Operating Trust Fund to fund the DHSMV's efforts to prevent and detect odometer fraud.<sup>6</sup> The DHSMV or the tax collector who processes the application retains the \$4.25 service charge.<sup>7</sup>

Additionally, expedited service for title transfers, issuances, duplicates, and recordation of liens is an option available for a \$10 fee. If requested, expedited service ensures the title is issued within five working days after receipt of the application.<sup>8</sup>

### **Co-owning a Vehicle<sup>9</sup>**

Motor vehicles can be registered in the names of two or more persons as co-owners of the vehicle. Names conjoined with the word "or" are held in joint tenancy. Co-owners are deemed to have granted one another absolute right to dispose of the title and interest in a motor vehicle or place a lien or encumbrance on the motor vehicle. As part of joint tenancy, the signature of any co-owner constitutes proper endorsement. Upon the death of any co-owner under this title, interest of the vehicle passes to the surviving co-owner. Names conjoined with the word "and" require the signature of each co-owner to transfer a title or place a lien or encumbrance on the vehicle.

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<sup>3</sup> Section 319.001(1), F.S.

<sup>4</sup> DHSMV, *Application for Certificate of Title With/Without Registration*, <http://www.flhsmv.gov/dmv/forms/BTR/82040.pdf> (last visited Jan. 30, 2017).

<sup>5</sup> Vehicles registered under s. 320.08(6), F.S.

<sup>6</sup> Sections 319.32(5) and 319.324, F.S.; Section 319.32(5), F.S., provides that \$47 of each fee collected for an original or duplicate certificate of title is deposited into the State Transportation Trust Fund, which may receive up to \$200 million in any fiscal year. The remainder of the fee and any fees in excess of the \$200 million are deposited into the General Revenue Fund.

<sup>7</sup> Section 319.32(2)(b), F.S.

<sup>8</sup> Section 319.323, F.S.

<sup>9</sup> Sections 319.22(2) and 319.235, F.S.

The DHSMV indicated 22.63 percent of Florida vehicles are co-owned, but the number of these vehicles co-owned by spouses is unknown.<sup>10</sup>

### **Transfer of Ownership- Death of Spouse**

A surviving spouse who inherits the deceased spouse's motor vehicle may dispose of the vehicle without being required to obtain a certificate of title in his or her name.<sup>11</sup> If the married couple are co-owners of the vehicle with names appearing conjoined by an "or" on the title, it is not necessary for the surviving spouse to apply for a new title, as he or she already has absolute rights to the vehicle. However, if the names are conjoined by "and" and the surviving spouse wishes to maintain ownership of the vehicle, the surviving spouse will be required to apply for a certificate of title in order to remove the name of the deceased spouse.

### **III. Effect of Proposed Changes:**

The bill prohibits the DHSMV and tax collectors from charging a surviving spouse any fee or service charge (excluding an expedited title fee, if applicable) for issuance of a motor vehicle certificate of title when the title is being issued solely to remove the deceased spouse as a co-owner. The fee waiver is only applicable if the vehicle is co-owned by the surviving and deceased spouse with both names on the certificate of title.

The bill takes effect July 1, 2017.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

Because this bill requires tax collectors to issue a no-cost replacement motor vehicle certificate of title to a surviving spouse, the bill falls within the purview of Art, VII, s. 18(a), of the Florida Constitution, which provides that counties are not bound by certain general laws that require the expenditure of funds unless certain exceptions or exemptions are met. Subsection (d) provides an exemption from this prohibition for laws determined to have an "insignificant fiscal impact," and this bill appears to have an insignificant impact.

#### **B. Public Records/Open Meetings Issues:**

None.

#### **C. Trust Funds Restrictions:**

None.

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<sup>10</sup> Office of Economic and Demographic Research, The Florida Legislature, *Revenue Estimating Conference: SB164/HB 97* (Jan. 20, 2017), [http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2017/\\_pdf/page14-16.pdf](http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2017/_pdf/page14-16.pdf) (Jan. 31, 2017).

<sup>11</sup> Section 319.28(1)(c), F.S.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

CS/SB 164 waives the certificate of title fee for a surviving spouse who is issued a certificate of title solely to remove his or her deceased spouse from the co-owned title.

**B. Private Sector Impact:**

A surviving spouse will no longer be required to pay a motor vehicle title fee or service charge for a title being issued solely to remove the deceased spouse from the title registered in the names of both spouses.

**C. Government Sector Impact:**

The number of married couples who jointly owned vehicles within the state is unknown. The DHSMV estimates the bill will have a negative fiscal impact that could be as much as \$222,182 to the General Revenue Fund, \$99,948 to the Highway Safety Operating Trust Fund and \$19,078 to local trust funds.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 319.32 of the Florida Statutes.

**IX. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS by Transportation on February 7, 2017:**

The CS clarifies that the fee waiver is only applicable if the vehicle is co-owned by the surviving and deceased spouse with both names on the certificate of title. Additionally, the CS prohibits *tax collectors* and DHSMV from charging any fee or *service charge*, with an exception for expedited title fees, if applicable.

**B. Amendments:**

None.