

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 97 Certificates of Title for Motor Vehicles  
**SPONSOR(S):** Transportation & Infrastructure Subcommittee, Pigman and others  
**TIED BILLS:** **IDEN./SIM. BILLS:** CS/SB 164

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Infrastructure Subcommittee	15 Y, 0 N, As CS	Johnson	Vickers
2) Transportation & Tourism Appropriations Subcommittee	13 Y, 0 N	Cobb	Davis
3) Government Accountability Committee	18 Y, 0 N	Johnson	Williamson

### SUMMARY ANALYSIS

Current law requires a surviving spouse who wishes to keep a motor vehicle owned by the deceased spouse to retitle the vehicle in the surviving spouse's name upon payment of a \$75.25 fee.

The bill 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 Revenue Estimating Conference met on March 24, 2017, and estimated that the committee substitute has a negative recurring annual impact of \$238,329 to the General Revenue Fund, \$111,740 to state trust funds, and a negative, insignificant recurring annual impact to local government revenues.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Current Situation**

In Florida, most vehicles are required to have a certificate of title. However, there are exceptions for mopeds, motorized bicycles, and trailers weighing less than 2,000 pounds.<sup>1</sup> A person is required to apply for a title in his or her name after purchasing a new vehicle, bringing a vehicle into Florida, 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, which can be a certificate in either paper or electronic form, and is authorized or stored by the DHSMV.<sup>3</sup> The application for a certificate of title requires, if applicable, information including, but not limited to, the:

- Name, mailing address, date of birth, and driver license number of an owner, co-owner, or lessee;
- Vehicle identification number;
- Make, manufacturer, year, body, and color of the vehicle;
- Lienholder information; and
- Odometer declaration.<sup>4</sup>

Section 319.28, F.S., relates to the transfer of ownership of a motor vehicle by operation of law. More specifically, s. 319.28(1)(c), F.S., provides that if a surviving spouse wishes to dispose of a vehicle rather than retain it for his or her own use that he or she is not required to obtain a certificate of title in his or her own name, but may assign to the transferee the certificate of title that was issued to the decedent. However, if the surviving spouse wishes to retain the motor vehicle, he or she is required to obtain a certificate of title in his or her own name.

##### Fees and Service Charges

Sections 319.32 and 319.234, F.S., set the fees and service charges for various certificate of title related transactions.

For transferring a motor vehicle title to a surviving spouse, the normal title fees apply, which for a standard electronic title with no lien is \$75.25. The fees are distributed as follows:

- Base Title fee of \$48 goes to General Revenue.
- Odometer Fee of \$1 goes to the Highway Safety Operating Trust Fund.
- Title Security Fee of \$1 goes to General Revenue.
- State Transportation Title Fee of \$21 goes to the Department of Transportation.
- Title Service Fee of \$4.25 goes to the agency processing the certificate of title, either DHSMV or the county tax collector.

##### Co-owning a Vehicle<sup>5</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 the 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 form of title, any interest in the vehicle

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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.*

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

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.

DHSMV indicated that 22.63 percent of Florida vehicles are co-owned; however, the number of these vehicles co-owned by spouses is unknown.<sup>6</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>7</sup> If the married couple co-owns 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 is required to apply for a certificate of title in order to remove the name of the deceased spouse.

#### **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 issuing 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 both the surviving and deceased spouse with both names on the certificate of title.

#### **B. SECTION DIRECTORY:**

Section 1 amends s. 319.32, F.S., relating to fees, service charges, and their disposition.

Section 2 provides an effective date of July 1, 2017.

### **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

#### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

##### **1. Revenues:**

On March 24, 2017, the Revenue Estimating Conference reviewed the committee substitute and determined that it would result in the following negative recurring fiscal impact to state government revenues:

Fiscal Year	General Revenue	Trust Funds	Total
2017-2018	\$238,329	\$111,740	\$350,069
2018-2019	\$243,408	\$114,121	\$357,529
2019-2020	\$248,390	\$116,458	\$364,848
2020-2021	\$253,704	\$118,949	\$372,653
2021-2022	\$259,591	\$121,709	\$381,300

##### **2. Expenditures:**

DHSMV indicates that approximately 225 hours, or the equivalent of \$7,875 in FTE and contracted resources, will be required in order to implement the bill. These costs can be absorbed within existing resources.<sup>8</sup>

<sup>6</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>7</sup> Section 319.28(1)(c), F.S.

<sup>8</sup> DHSMV bill analysis of SB 164, page 4.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

**1. Revenues:**

On March 24, 2017 the Revenue Estimating Conference reviewed the committee substitute and determined that it would result in a negative, insignificant fiscal impact to local government revenues.

**2. Expenditures:**

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

Surviving spouses will see a reduction in the cost of transferring certificates of title issued for motor vehicles.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

**1. Applicability of Municipality/County Mandates Provision:**

Not Applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

**2. Other:**

None.

**B. RULE-MAKING AUTHORITY:**

None.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On February 15, 2017, the Transportation & Infrastructure Subcommittee adopted one amendment and reported the bill favorable as a committee substitute. The amendment clarified 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, it prohibits tax collectors and DHSMV from charging any fee or service charge, with an exception for expedited title fees, if applicable.

The analysis is written to the committee substitute as reported favorably by the Transportation & Infrastructure Subcommittee.