

HB

74

A BILL FOR AN ACT

RELATING TO MOTOR VEHICLE REGISTRATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 286, Hawaii Revised Statutes, is
2 amended by adding a new section to part III to be appropriately
3 designated and to read as follows:
4 "§286- Transfer of ownership upon the death of the
5 registered owner or legal owner of the motor vehicle. (a) Upon
6 the death of the registered owner or legal owner of a motor
7 vehicle registered under this part, without the decedent leaving
8 other property necessitating probate, and irrespective of the
9 value of the motor vehicle, the following person or persons may
10 secure transfer of the certificate of registration and
11 certificate of ownership of the vehicle from the decedent:
12 (1) The sole person or all of the persons who succeeded to
13 the property of the decedent under section 560:2-102
14 and 560:2-103 unless the vehicle is otherwise
15 bequeathed by will; or



1 (2) The sole beneficiary or all of the beneficiaries who
2 succeeded to the vehicle under the will of the
3 decedent where the vehicle is so bequeathed by will.

4 (b) The person authorized by subsection (a) may secure the
5 transfer of the certificate of registration and certificate of
6 ownership of the decedent's vehicle upon presenting to the
7 director of finance all of the following:

8 (1) The appropriate certificate of registration and
9 certificate of ownership, if available;

10 (2) A certificate of the heir or beneficiary under penalty
11 of perjury containing the following statements:

12 (A) The date and place of the decedent's death;

13 (B) The decedent left no other property necessitating
14 probate and no probate proceeding is now being or
15 has been conducted in the State for the
16 decedent's estate;

17 (C) The declarant is entitled to the vehicle either:

18 (i) As the sole person or all of the persons who
19 succeeded to the property of the decedent
20 under sections 560:2-102 and 560:2-103 if
21 the decedent left no will; or



1 (ii) As the beneficiary or beneficiaries under
2 the decedent's last will if the decedent
3 left a will, and no one has a right to the
4 decedent's vehicle that is superior to that
5 of the declarant; and

6 (D) There are no unsecured creditors of the decedent
7 or, if there are, the unsecured creditors of the
8 decedent have been paid in full or their claims
9 have been otherwise discharged;

10 (3) If required by the director of finance, a certificate
11 of the death of the decedent; and

12 (4) If required by the director of finance, the names and
13 addresses of any other heirs or beneficiaries.

14 (c) If the director of finance is presented with the
15 documents specified in paragraphs (1) and (2) of subsection (b),
16 no liability shall be incurred by the director of finance by
17 reason of the transfer of the vehicle pursuant to this section.
18 The director of finance may rely in good faith on the statements
19 in the certificate specified in subsection (b) (2) and has no
20 duty to inquire into the truth of any statement in the
21 certificate. The person who secures the transfer of the vehicle



1 pursuant to this section shall be subject to part 12 of article
2 3 of chapter 560.

3 (d) Application for transfer of ownership under this
4 section shall be made upon an appropriate form furnished by the
5 director of finance."

6 SECTION 2. Section 286-52, Hawaii Revised Statutes, is
7 amended by amending subsection (f) to read as follows:

8 "(f) In the event of the transfer by operation of law of
9 the title or interest of a legal owner in and to a vehicle
10 registered under this part, as upon inheritance, devise, [~~or~~]
11 bequest, or pursuant to section 286- , order in bankruptcy, or
12 insolvency, execution sale, repossession upon default in
13 performance of the terms of a lease or executory sales contract,
14 or otherwise than by the voluntary act of the person whose title
15 or interest is so transferred, the certificate of ownership
16 shall be signed upon the spaces provided by the personal
17 representative, receiver, trustee, sheriff, or other
18 representative, or successor in interest of the person whose
19 title or interest is so transferred in lieu of such person.
20 Every personal representative, receiver, trustee, sheriff, or
21 other representative hereinabove referred to shall file with the



1 director of finance a notice of any transfer by sale, lease, or
 2 otherwise by such person, of any such vehicle, together with
 3 evidence satisfactory to the director of finance of all facts
 4 entitling such representative to make the transfer. Upon notice
 5 given to the director of finance that transfer by operation of
 6 law of the title or interest of a legal owner or a registered
 7 owner has been effected pursuant to any provision of law, the
 8 director of finance shall send to the legal owner or the
 9 registered owner or both a notice by registered mail of such
 10 action and requesting the delivery to the director of finance of
 11 the certificate of ownership or the certificate of registration,
 12 as the case may be, within ten days after date of mailing of the
 13 notice, and any person who refuses or neglects to deliver the
 14 same to the director of finance pursuant to the notice shall be
 15 guilty of a misdemeanor and shall be punished as provided in
 16 section 286-61."

17 SECTION 3. Statutory material to be repealed is bracketed
 18 and stricken. New statutory material is underscored.

19 SECTION 4. This Act shall take effect on July 1, 2019.

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INTRODUCED BY:

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H.B. NO. 74

Report Title:

Motor Vehicle Registration; Transfer Upon Death

Description:

Allows qualified individuals to secure transfer of a vehicle's certificate of vehicle registration and certificate of ownership upon the death of the registered owner or legal owner of a registered motor vehicle without going through probate.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.



Presentation To The
Committee on Consumer Protection
February 7, 2018 at 2:00 PM
State Capitol Conference Room 329

Testimony in Opposition to House Bill 74

TO: The Honorable Roy M. Takumi, Chair
The Honorable Linda Ichiyama, Vice Chair
Members of the Committee

My name is Neal K. Okabayashi, the Executive Director of the Hawaii Bankers Association (HBA). HBA is the trade association representing eight Hawaii banks and three banks from the continent with branches in Hawaii.

The Hawaii Bankers Association opposes House Bill 74, which appears to seek to achieve the same purpose as in HB 1625, which is to transfer title to a car to a beneficiary or heir without probate.

Banks finance the purchase of vehicles and the liens securing the debt are listed on the vehicle registrations. Unlike real estate liens, there is no statewide mechanism to document the ownership and a lien on the vehicle. The lien is done on the county level by noting the lender lien on the car registration. The person holding the lien is called the legal owner and the person who bought the vehicle is normally called the registered owner.

HB 74 suffers from the same defects as HB 1625 from the 2018 session. HBA is concerned because if ownership of the vehicle is to be transferred after death there still are no provisions that protect the lender's position by requiring that the lender's lien be noted on the new registrations.

By requiring the lender lien to be noted on the registration, the new registered owner is protected because the new registered owner is notified that there is a lien on the car and so the new owner knows payments must be made to the lender to avoid repossession of the vehicle.

The bill proposes a transfer process that differs from the normal process if ownership of a car is to be transferred. In such situation, the lien is usually paid in full and the lien is released. However, the bill provides that title to the car be transferred without paying off the loan or listing the lender lien on the registration.

Even if the lien is noted on the registration, there is no notice to the lender who now does not know who now owns the car and where that person lives. Thus, without notice, the lender will not be able to enforce its collection rights since there is no notice of the whereabouts of the new owner. Perhaps it is more logical to require that the new owner may not take advantage of this process until the lien is paid in full.

As described in this testimony, the issue is more complicated than it seems, and if the Committee desires to vote in the affirmative on this bill, HBA is willing to work with stakeholders to craft an amendment.

Thank you for the opportunity to submit this testimony and please let us know if we can provide further information.

Neal K. Okabayashi
(808) 524-5161

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Submitted on: 2/5/2019 10:45:19 AM

Testimony for CPC on 2/7/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Karen Winslow	Individual	Support	No

Comments: