**South Carolina General Assembly**

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**H. 5338**

**STATUS INFORMATION**

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Introduced in the House on March 3, 2020

Currently residing in the House Committee on **Judiciary**

Summary: Transfers on death for titled personal property

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

3/3/2020 House Introduced and read first time ([House Journal‑page 48](file:///h:\hj\20200303.docx))

3/3/2020 House Referred to Committee on **Judiciary** ([House Journal‑page 48](file:///h:\hj\20200303.docx))

View the latest [legislative information](http://www.scstatehouse.gov/billsearch.php?billnumbers=5338&session=123&summary=B) at the website

**VERSIONS OF THIS BILL**

[3/3/2020](file:///p:\pprever\2019-20\5338_20200303.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING PART 4 TO ARTICLE 6, TITLE 62 SO AS TO PROVIDE FOR TRANSFER ON DEATH DESIGNATIONS FOR CERTAIN CATEGORIES OF TITLED PERSONAL PROPERTY; TO AMEND SECTION 50‑23‑60, RELATING TO APPLICATIONS FOR CERTIFICATES OF TITLE FOR WATERCRAFT OR OUTBOARD MOTORS, SO AS TO PROVIDE FOR TRANSFER ON DEATH DESIGNATIONS; TO AMEND SECTION 50‑23‑70, AS AMENDED, RELATING TO FEES FOR WATERCRAFT AND OUTBOARD MOTOR CERTIFICATES OF TITLE, SO AS TO ESTABLISH A FEE FOR TRANSFER ON DEATH DESIGNATIONS; TO AMEND SECTION 50‑23‑90, RELATING TO THE CONTENTS OF WATERCRAFT AND OUTBOARD MOTOR CERTIFICATES OF TITLE, SO AS TO REQUIRE CERTAIN INFORMATION REGARDING TRANSFER ON DEATH DESIGNATIONS; TO AMEND SECTION 50‑23‑130, RELATING TO TRANSFERS OF OWNERSHIP OF WATERCRAFT AND OUTBOARD MOTORS BY OPERATION OF LAW, SO AS TO INCLUDE TRANSFER ON DEATH DESIGNATIONS; TO AMEND SECTION 56‑19‑290, RELATING TO THE CONTENTS OF A CERTIFICATE OF TITLE ISSUED BY THE DEPARTMENT OF MOTOR VEHICLES, SO AS TO REQUIRE CERTAIN INFORMATION REGARDING TRANSFER ON DEATH DESIGNATIONS; TO AMEND SECTION 56‑19‑420, RELATING TO FEES THE DEPARTMENT OF MOTOR VEHICLES MAY CHARGE TO ISSUE OR TRANSFER A CERTIFICATE OF TITLE, SO AS TO ESTABLISH A FEE FOR TRANSFER ON DEATH DESIGNATIONS; AND TO AMEND SECTION 62‑6‑101, RELATING TO DEFINITIONS APPLICABLE TO NONPROBATE TRANSFERS, SO AS TO REVISE AND INCLUDE CERTAIN DEFINITIONS PERTAINING TO TRANSFERS ON DEATH FOR TITLED PERSONAL PROPERTY.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Article 6, Title 62 of the 1976 Code is amended by adding:

“Part 4

Transfers on Death for Titled Personal Property

Section 62‑6‑401. (A) In addition to such other methods for registering and titling titled personal property as permitted in Title 50 and Title 56, any owner of a vehicle, mobile home, watercraft, outboard motor or any similar personal property for which legal titles are issued and administered by the Department of Motor Vehicles or Department of Natural Resources may establish a Transfer on Death (TOD) designation upon any such title or registration, subject to the provisions of this section, for the purposes set forth herein.

(B) A TOD designation on any titled personal property shall pass, upon the death of all owners of such titled personal property, to the TOD beneficiary or beneficiaries pursuant to this section and is effective by reason of this statute and such transfer is not testamentary or subject to Articles 1 through 4 (estate administration).

(C) A beneficiary of a TOD designation on any titled personal property has no ownership of the titled personal property during the lifetime of the owner or owners of such titled personal property.

(D) The following rules shall apply to titled personal property owned by one owner with TOD designation:

(1) On the death of an owner who is the sole owner of titled personal property with a TOD designation, the titled personal property belongs to the surviving beneficiary or beneficiaries named in the TOD designation. If two or more beneficiaries survive, the titled personal property must be titled to them in undivided equal shares, and there is no right of survivorship in the event of a later death of a beneficiary, unless such beneficiaries shall thereafter change the titling during their lifetimes to reflect such a right of survivorship.

(2) If no beneficiary named on the TOD designation survives upon the death of the owner, then the titled personal property belongs to the estate of the owner.

(3) Any sole owner who utilizes a TOD designation on titled personal property may revoke or modify the TOD designation at any time during the owner’s life without the consent of any beneficiary listed on a TOD designation.

(E) The following rules shall apply to titled personal property owned by two or more owners with TOD designation:

(1) Only multiple owners who own titled personal property with right of survivorship shall be entitled to utilize a TOD designation to transfer property pursuant to this section and a TOD designation for multiple owners who own titled personal property without such right of survivorship shall be ineffective.

(2) On the death of one owner among multiple owners with right of survivorship the titled personal property belongs to the surviving owner or owners. If two or more owners survive, the titled personal property belongs to the surviving owners in undivided equal shares and the right of survivorship continues between the surviving parties.

(3) On the death of the last surviving owner among multiple owners with right of survivorship, the titled personal property belongs to the surviving beneficiary or beneficiaries named in a TOD designation. If two or more beneficiaries survive, the titled personal property belongs to them in undivided equal shares, and there is no right of survivorship in the event of a later death of a beneficiary, unless such beneficiaries shall thereafter change the titling to reflect such a right of survivorship during their lifetimes. If no beneficiary named in the TOD designation is living on the date of the last surviving owner’s death, the titled personal property belongs to the estate of the last surviving owner.

(4) When multiple owners own titled personal property, all of such multiple owners, or the survivors among them, must act together to establish such TOD designation or to thereafter revoke or modify such TOD designation, but the consent of any beneficiary selected in such TOD designation must not be required.

(F) An owner or multiple owners of a vehicle, mobile home or any other similar vehicle or property for which the Department of Motor Vehicles issues and administers titles shall apply to the Department of Motor Vehicles for such TOD designation pursuant to the terms of this section pursuant to the rules and standards of the department.

(G) An owner or multiple owners of a watercraft, outboard motor or any other similar watercraft or property for which the Department of Natural Resources issues and administers titles shall apply to the Department of Natural Resources for such TOD designation pursuant to the terms of this section pursuant to the rules and standards of the department.

(H) The Department of Motor Vehicles or the Department of Natural Resources, as appropriate, upon request, shall retitle the appropriate titled personal property with a TOD designation, to:

(1) The beneficiary or beneficiaries named in the TOD designation, if proof of death is presented to the appropriate department showing that the beneficiary or beneficiaries survived all owners of the titled personal property.

(2) The personal representative of a deceased party, if proof of death is presented to the appropriate department showing that the deceased party was the last survivor of all other owners named on the title to the titled personal property and there shall be no surviving beneficiaries named in any TOD designation.

(3) To such party or parties in accordance with a court order directing the retitling of such titled personal property.

(I) For purposes of this section, ownership of titled personal property using ‘OR’ with two or more multiple owners shall indicate ‘joint tenants with right of survivorship’, while ownership using ‘AND’ with two or more multiple owners shall indicate ownership ‘tenants in common’. Only sole owners and multiple owners holding title to titled personal property with such right of survivorship (e.g., ‘OR’ titling between multiple owners) are eligible to utilize the TOD procedures described in this statute.”

SECTION 2. Section 50‑23‑60(A) of the 1976 Code is amended to read:

“(A) Every person who acquires a watercraft or outboard motor required to be titled under this chapter shall apply to the department within thirty days of the date of acquisition for a certificate of title for the watercraft or outboard motor accompanied by the required fee and on forms required by the department. The application must be signed by the person who acquires the watercraft or outboard motor and shall contain:

(1) the applicant’s name, domiciled address including the county, date of birth, and the county where the watercraft is principally located, state issued identification number, and state of issue;

(2) for watercraft, a description of the watercraft, including its make, model, model year, length, the principal material used in construction, hull number, and the manufacturer’s engine serial number if an inboard; for an outboard motor, its make, model, model year, or year of manufacture, and horsepower, and manufacturer’s serial number;

(3) the date of acquisition by the applicant, the name and address of the person from whom the watercraft or outboard motor was acquired, and the names and addresses of persons having a security interest in the order of their priority;

(4) a bill of sale; ~~and~~

(5) further information reasonably required by the department to enable it to determine whether the owner is entitled to a certificate of title and the existence or nonexistence of security interests in the watercraft or outboard motor;

(6) when a Transfer on Death (TOD) beneficiary is designated, each TOD beneficiary’s name, domiciled address including the county, date of birth, state‑issued identification number, and state of issue; and

(7) in the case of one or more TOD beneficiaries receiving the title and registration to a watercraft or outboard motor, a bill of sale shall not be required for the department to issue a title, but such TOD beneficiaries shall establish the death of all owners of the watercraft or outboard motor.”

SECTION 3. Section 50‑23‑70 of the 1976 Code, as last amended by Act 223 of 2018, is further amended by adding an appropriately lettered subsection at the end to read:

“( ) The fee to establish, modify or revoke a Transfer on Death designation upon a certificate of title for a watercraft or outboard motor is ten dollars.”

SECTION 4. Section 50‑23‑90(a) of the 1976 Code is amended to read:

“(a) Each certificate of title issued by the department shall contain:

(1) The date issued;

(2) The name and address of the owner;

(3) The names and addresses of any lienholders, in the order of priority as shown on the application or, if the application is based on a certificate of title, as shown on the certificate;

(4) The title number assigned to the watercraft or outboard motor;

(5) A description of the watercraft or outboard motor including its make, model, model year, or year of manufacture, horsepower, registration number, and manufacturer’s serial number or, hull number assigned to the watercraft by the department, length, and the principal material used in construction;

(6) On the reverse side of the certificate, spaces for assignment of title by the owner or by the dealer and for a warranty that the signer is the owner and that there are no mortgages, liens or encumbrances on the watercraft or outboard motor except as are noted on the face of the certificate of title; ~~and~~

(7) Information of whether Transfer on Death beneficiary designations have been filed with the department; and

(8) Any other data the department prescribes.”

SECTION 5. Section 50‑23‑130(a) of the 1976 Code is amended to read:

“(a) If the ownership of a watercraft or outboard motor is transferred by operation of law, such as by inheritance, Transfer on Death, devise or bequest, order in bankruptcy, insolvency, replevin, or execution sale, or satisfaction of mechanic’s lien, or repossession upon default in performance of the terms of a security agreement, the transferee shall, except as provided in subsection (b), promptly mail or deliver to the department the last certificate of title, if available, or the manufacturer’s or importer’s statement of origin, or, if that is not possible, satisfactory proof of the transfer of ownership, and his application for a new certificate of title accompanied by the required fee, and upon the appropriate form or forms prescribed and furnished by the department.”

SECTION 6. Section 56‑19‑290 of the 1976 Code is amended to read:

“Section 56‑19‑290. Each certificate of title issued by the Department of Motor Vehicles shall contain:

(1) The date issued;

(2) The name and address of the owner;

(3) The names and addresses of any lienholders, in the order of priority as shown on the application, and dates of the liens, or if the application is based on a certificate of title, as shown on the certificate;

(4) The title number assigned to the vehicle;

(5) A description of the vehicle including, so far as the following data exists: its make, model, vehicle identification number, odometer reading at the time of application, and type of body;

(6) The names of any Transfer on Death beneficiary established upon such title pursuant to Section 62‑6‑401; and

(7) Any other data the Department prescribes.

The certificate of title shall contain forms for assignment and warranty of title by the owner and for reassignment and warranty of title by a dealer and may contain forms for application for a certificate of title by a transferee, the naming of a lienholder and the assignment or release of the security interest of a lienholder.”

SECTION 7. Section 56‑19‑420(A) of the 1976 Code is amended to read:

“(A) The Department of Motor Vehicles shall charge fifteen dollars for:

(1) the issuance of a certificate of title;

(2) the transfer of a certificate of title; ~~or~~

(3) the issuance of a duplicate certificate of title; or

(4) the establishment, modification, or revocation of Transfer on Death beneficiaries pursuant to Section 62‑6‑401.”

SECTION 8. Section 62‑6‑101 of the 1976 Code is amended to read:

“Section 62‑6‑101. In this subpart:

(1) ‘Account’ means a contract of deposit between a depositor and a financial institution, and includes a checking account, savings account, certificate of deposit, share account, and other like arrangements.

(2) ‘Agent’ means a person authorized to make account transactions for a party.

(3) ‘Beneficiary’ means a person named as one to whom sums on deposit in an account are payable on request after the death of all parties or for whom a party is named as the trustee; or, as it relates to titled personal property, any party named as one to whom a title shall be reregistered and retitled on request after the death of all owners of titled personal property.

(4) ‘Financial institution’ means any organization authorized to do business under state or federal laws relating to financial institutions, and includes a bank, trust company, savings bank, building and loan association, savings and loan company or association, and credit union.

(5) ‘Multiple‑Party account’ means an account payable on request to one or more of two or more parties, whether or not a right of survivorship is mentioned including, but not limited to, joint accounts or POD accounts.

(6) ‘Net contribution of a party’ means the sum of all deposits to an account made by or for the party, less all payments from the account made to or for the party which have not been paid to or applied to the use of another party and a proportionate share of any charges deducted from the account, plus a proportionate share of any interest or dividends earned, whether or not included in the current balance. The term includes deposit life insurance proceeds added to the account by reason of death of the party whose net contribution is in question.

(7) ‘Party’ means a person who, by the terms of an account, has a present right, subject to request, to payment from the account other than as a beneficiary or agent.

(8) ‘Payment’ of sums on deposit includes withdrawal, payment to a party, or third person pursuant to a check or other request, and a pledge of sums on deposit by a party, or a set‑off, reduction, or other disposition of all or part of an account pursuant to a pledge.

(9) ‘Proof of death’ includes a death certificate or record or report which is prima facie proof of death under Section 62‑1‑507.

(10) ‘P.O.D. designation’ means the designation of: (i) a beneficiary in an account payable on request to one party during the party’s lifetime and on the party’s death to one or more beneficiaries, or to one or more parties during their lifetimes and on death of all of them to one or more beneficiaries, or (ii) a beneficiary in an account in the name of one or more parties as trustee for one or more beneficiaries if the relationship is established by the terms of the account and there is no subject of the trust other than the sums on deposit in the account, whether or not payment to the beneficiary is mentioned.

(11) ‘Receive’ as it relates to notice to a financial institution, means receipt in the office or branch office of the financial institution in which the account is established, but if the terms of the account require notice at a particular place, in the place required.

(12) ‘Request’ means a request for payment complying with all terms of the account, including special requirements concerning necessary signatures and regulations of the financial institution. However, for purposes of this subpart, if terms of the account condition payment on advance notice, a request for payment is treated as immediately effective and a notice of intent to withdraw is treated as a request for payment.

(13) ‘Sums on deposit’ means the balance payable on an account including interest and dividends earned, whether or not included in the current balance, and any deposit life insurance proceeds added to the account by reason of the death of a party.

(14) ‘Terms of the account’ includes the deposit agreement and other terms and conditions, including the form, of the contract of deposit.

(15) ‘Owner’ as it relates to titled personal property, means one or more parties with titled personal property registered and titled in such parties’ respective name or names.

(16) ‘Transfer on Death’ or ‘TOD’ means the designation of a beneficiary named on titled personal property for purposes of reregistering and retitling such titled personal property in such beneficiary’s or beneficiaries’ name or names upon the death of the last surviving owner of such titled personal property.

(17) ‘Titled personal property’ means any vehicle, mobile home, watercraft, outboard motor, or any other similar personal property for which the Department of Motor Vehicles or Department of Natural Resources issues and administers legal titles.”

SECTION 9. This act takes effect upon approval by the Governor.

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