
SENATE BILL No. 81

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-1.1-5-7; IC 9-17; IC 9-18-12-5; IC 9-29-4-4; IC 9-31-2; IC 32-21-13.

Synopsis: Transfer on death conveyances. Authorizes an owner of a vehicle or a watercraft to transfer ownership of the vehicle or watercraft upon the death of the owner by designating a transfer on death beneficiary on the certificate of title for the vehicle or watercraft. Authorizes an owner of real property to transfer ownership of the real property upon the death of the owner by using a transfer on death deed. Provides that a transfer on death deed must be recorded to be valid. Requires the recording of the grantor's death certificate and other documents after the death of the grantor. Allows 60 days rather than 31 days for an individual acquiring a motor vehicle or a watercraft as a transfer on death beneficiary to fulfill certain duties.

Effective: July 1, 2008.

Kruse

January 8, 2008, read first time and referred to Committee on Judiciary.

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Second Regular Session 115th General Assembly (2008)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2007 Regular Session of the General Assembly.

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SENATE BILL No. 81



A BILL FOR AN ACT to amend the Indiana Code concerning property.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 6-1.1-5-7 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. (a) A person to
3 whom the title to real property has passed, ~~either~~ under the laws of
4 descent of this state, **by a transfer on death deed executed under**
5 **IC 32-21-13**, or by virtue of the last will of a decedent, may procure a
6 transfer of the real property on the tax duplicate on which the real
7 property is assessed and taxed. In order to procure the transfer, the
8 person must prepare an affidavit and, except as provided in section 9
9 of this chapter, file it with the auditor of the county in which the real
10 property is situated. The affidavit shall contain the following
11 information:

- 12 (1) the decedent's date of death;
- 13 (2) whether the decedent died testate or intestate; and
- 14 (3) the affiant's interest in the real property.

15 ~~In addition, if the~~ **(b) This subsection applies in the case of a**
16 **decedent who died testate. In addition to the other information that**
17 **must be contained in the affidavit prepared and filed under**



1 **subsection (a)**, the affiant must attach a certified copy of the decedent's
2 will to the affidavit. However, if the will has been probated or recorded
3 in the county in which the real property is located, the affiant, in lieu
4 of attaching a certified copy of the will, shall state that fact in the
5 affidavit and indicate the volume and page of the record where the will
6 may be found.

7 **(c) This subsection applies in the case of a decedent who**
8 **executed a transfer on death deed under IC 32-21-13. In addition**
9 **to the other information that must be contained in the affidavit**
10 **prepared and filed under subsection (a), the affidavit must state the**
11 **fact that the decedent's transfer on death deed was recorded and**
12 **must indicate the volume and page of the record where the transfer**
13 **on death deed may be found.**

14 ~~(b)~~ **(d)** Except as provided in section 9 of this chapter, the county
15 auditor shall enter a transfer of the real property in the proper transfer
16 book after the affidavit is filed with ~~his~~ **the county auditor's** office.

17 ~~(c)~~ **(e)** No transfer made under this section has the effect of
18 conferring title upon the person procuring the transfer.

19 SECTION 2. IC 9-17-2-2 IS AMENDED TO READ AS FOLLOWS
20 [EFFECTIVE JULY 1, 2008]: Sec. 2. **(a)** A person applying for a
21 certificate of title for a vehicle must submit an application on a form
22 furnished by the bureau that contains the following information:

- 23 (1) A full description of the vehicle.
- 24 (2) A statement of the person's title and of any lien or
25 encumbrance on the vehicle.
- 26 (3) Other information the bureau requires.

27 **(b) This subsection applies only to an individual who receives an**
28 **interest in a vehicle under IC 9-17-3-9. To obtain a certificate of**
29 **title for the vehicle, the individual must do the following:**

- 30 **(1) Surrender the certificate of title designating the individual**
31 **as a transfer on death beneficiary.**
- 32 **(2) Submit proof of the transferor's death.**
- 33 **(3) Submit an application for a certificate of title on a form**
34 **furnished by the bureau that meets the requirements of**
35 **subsection (a).**

36 SECTION 3. IC 9-17-3-3 IS AMENDED TO READ AS FOLLOWS
37 [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) If a vehicle for which a
38 certificate of title has been issued is sold or if the ownership of the
39 vehicle is ~~otherwise~~ transferred **in any manner other than by a**
40 **transfer on death conveyance under section 9 of this chapter**, the
41 person who holds the certificate of title must do the following:

- 42 (1) Endorse on the certificate of title an assignment of the

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1 certificate of title with warranty of title, in a form printed on the
 2 certificate of title, with a statement describing all liens or
 3 encumbrances on the vehicle.
 4 (2) Except as provided in subdivisions (3) and (4), deliver the
 5 certificate of title to the purchaser or transferee at the time of the
 6 sale or delivery to the purchaser or transferee of the vehicle, if the
 7 purchaser or transferee has made all agreed upon initial payments
 8 for the vehicle, including delivery of a trade-in vehicle without
 9 hidden or undisclosed statutory liens.
 10 (3) In the case of a sale or transfer between vehicle dealers
 11 licensed by this state or another state, deliver the certificate of
 12 title within twenty-one (21) days after the date of the sale or
 13 transfer.
 14 (4) Deliver the certificate of title to the purchaser or transferee
 15 within twenty-one (21) days after the date of sale or transfer to the
 16 purchaser or transferee of the vehicle, if all of the following
 17 conditions exist:
 18 (A) The seller or transferor is a vehicle dealer licensed by the
 19 state under IC 9-23.
 20 (B) The vehicle dealer is not able to deliver the certificate of
 21 title at the time of sale or transfer.
 22 (C) The vehicle dealer reasonably believes that it will be able
 23 to deliver the certificate of title, without a lien or an
 24 encumbrance on the certificate of title, within the twenty-one
 25 (21) day period.
 26 (D) The vehicle dealer provides the purchaser or transferee
 27 with an affidavit under section 3.1 of this chapter.
 28 (E) The purchaser or transferee has made all agreed upon
 29 initial payments for the vehicle, including delivery of a
 30 trade-in vehicle without hidden or undisclosed statutory liens.
 31 (b) A licensed dealer may offer for sale a vehicle for which the
 32 dealer does not possess a certificate of title, if the dealer can comply
 33 with subsection (a)(3) or (a)(4) at the time of the sale.
 34 (c) A vehicle dealer who fails to deliver a certificate of title within
 35 the time specified under this section is subject to the following civil
 36 penalties:
 37 (1) One hundred dollars (\$100) for the first violation.
 38 (2) Two hundred fifty dollars (\$250) for the second violation.
 39 (3) Five hundred dollars (\$500) for all subsequent violations.
 40 Payment shall be made to the bureau and deposited in the state general
 41 fund. In addition, if a purchaser or transferee does not receive a valid
 42 certificate of title within the time specified by this section, the

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1 purchaser or transferee shall have the right to return the vehicle to the
 2 vehicle dealer ten (10) days after giving the vehicle dealer written
 3 notice demanding delivery of a valid certificate of title and the dealer's
 4 failure to deliver a valid certificate of title within that ten (10) day
 5 period. Upon return of the vehicle to the dealer in the same or similar
 6 condition as delivered to the purchaser or transferee under this section,
 7 the vehicle dealer shall pay to the purchaser or transferee the purchase
 8 price plus sales taxes, finance expenses, insurance expenses, and any
 9 other amount paid to the dealer by the purchaser.

10 (d) For purposes of this subsection, "timely deliver", with respect to
 11 a third party, means to deliver to the purchaser or transferee with a
 12 postmark dated or hand delivered not more than ten (10) business days
 13 after there is no obligation secured by the vehicle. If the dealer's
 14 inability to timely deliver a valid certificate of title results from the acts
 15 or omissions of a third party who has failed to timely deliver a valid
 16 certificate of title to the dealer, the dealer is entitled to claim against
 17 the third party one hundred dollars (\$100). If:

18 (1) the dealer's inability to timely deliver a valid certificate of title
 19 results from the acts or omissions of a third party who has failed
 20 to timely deliver the certificate of title in the third party's
 21 possession to the dealer; and

22 (2) the failure continues for ten (10) business days after the dealer
 23 gives the third party written notice of the failure;

24 the dealer is entitled to claim against the third party all damages
 25 sustained by the dealer in rescinding the dealer's sale with the
 26 purchaser or transferee, including the dealer's reasonable attorney's
 27 fees.

28 (e) If a vehicle for which a certificate of title has been issued by
 29 another state is sold or delivered, the person selling or delivering the
 30 vehicle must deliver to the purchaser or receiver of the vehicle a proper
 31 certificate of title with an assignment of the certificate of title in a form
 32 prescribed by the bureau.

33 (f) The original certificate of title and all assignments and
 34 subsequent reissues of the certificate of title shall be retained by the
 35 bureau and appropriately classified and indexed in the most convenient
 36 manner to trace title to the vehicle described in the certificate of title.

37 (g) A dealer shall make payment to a third party to satisfy any
 38 obligation secured by the vehicle within five (5) days after the date of
 39 sale.

40 SECTION 4. IC 9-17-3-9 IS ADDED TO THE INDIANA CODE
 41 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 42 1, 2008]: **Sec. 9. (a) An individual whose certificate of title for a**

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1 vehicle indicates that the individual is the sole owner of the vehicle
 2 may create an interest in the vehicle that is transferrable on the
 3 death of the individual by obtaining a certificate of title conveying
 4 the interest in the vehicle to one (1) or more named individuals as
 5 transfer on death beneficiaries.

6 (b) Subject to subsection (e), an interest in a vehicle transferred
 7 under this section vests upon the death of the transferor.

8 (c) A certificate of title that is:

9 (1) worded in substance as "A.B. transfers on death to C.D.";
 10 and

11 (2) signed by the transferor;

12 is a good and sufficient conveyance on the death of the transferor
 13 to the transferee.

14 (d) A certificate of title obtained under this section is not
 15 required to be:

16 (1) supported by consideration; or

17 (2) delivered to the named transfer on death beneficiary;

18 to be effective.

19 (e) Upon the death of an individual conveying an interest in a
 20 vehicle in a certificate of title obtained under this section, the
 21 interest in the vehicle is transferred to each beneficiary who:

22 (1) is named in the certificate; and

23 (2) survives the transferor.

24 (f) A transfer of an interest in a vehicle under this section is
 25 subject to IC 6-4.1.

26 (g) A certificate of title designating a transfer on death
 27 beneficiary is not testamentary.

28 SECTION 5. IC 9-18-12-5 IS AMENDED TO READ AS
 29 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. (a) Upon the transfer
 30 of ownership of an antique motor vehicle registered under this chapter:

31 (1) the antique motor vehicle's registration is void; and

32 (2) the license plates shall be removed from the antique motor
 33 vehicle by the person who owns the antique motor vehicle.

34 (b) A person who is not the original registrant of an antique motor
 35 vehicle may not possess the license plates for the antique motor
 36 vehicle.

37 (c) A person who originally owns the license plates for an antique
 38 motor vehicle may, for the remainder of the year in which the
 39 ownership of the vehicle is transferred, register another antique motor
 40 vehicle under the same registration.

41 (d) **This subsection does not apply to an antique motor vehicle**
 42 **acquired by a conveyance subject to IC 9-17-3-9.** Upon the transfer

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1 and sale of an antique motor vehicle registered under this chapter, the
 2 person who acquires ownership of the antique motor vehicle shall, not
 3 more than thirty-one (31) days after the date of acquiring ownership or
 4 before using the motor vehicle upon the highways, make an application
 5 with the bureau for registration of the antique motor vehicle under this
 6 chapter.

7 **(e) This subsection applies only to an antique motor vehicle**
 8 **acquired by a conveyance subject to IC 9-17-3-9. Upon the transfer**
 9 **and sale of an antique motor vehicle registered under this chapter,**
 10 **the person who acquires ownership of the antique motor vehicle**
 11 **shall, not more than sixty (60) days after the date of acquiring**
 12 **ownership or before using the motor vehicle upon the highways,**
 13 **make an application with the bureau for registration of the antique**
 14 **motor vehicle under this chapter.**

15 SECTION 6. IC 9-29-4-4, AS AMENDED BY P.L.219-2005,
 16 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 17 JULY 1, 2008]: Sec. 4. (a) The fee for a delinquent title is ten dollars
 18 (\$10). Except as provided in subsections (b), (c), ~~and~~ (d), **and (e)**, the
 19 bureau shall collect this fee when a purchaser or transferee fails to
 20 apply for an original certificate of title or a transfer of title, by
 21 assignment, within thirty-one (31) days after the vehicle is purchased
 22 or otherwise acquired. This fee is in addition to all other fees imposed
 23 for the issuance of a certificate of title.

24 (b) A dealer who titles a vehicle in the dealership's name for
 25 purposes of putting the vehicle in rental, leasing, or demonstrating
 26 service is not required to pay a delinquent title fee under this section,
 27 but shall pay the following for each title:

28 (1) The title fee under section 3 of this chapter.

29 (2) A service charge under IC 9-29-3.

30 (c) A dealer who titles a vehicle in the dealership's name for the
 31 purpose of selling the vehicle shall pay the following:

32 (1) The title fee under section 3 of this chapter.

33 (2) A service charge under IC 9-29-3.

34 (d) IC 9-17-2-1.5 applies to the purchase or acquisition of an
 35 off-road vehicle that is less than five (5) model years old.

36 **(e) An individual who acquires a vehicle by a conveyance**
 37 **subject to IC 9-17-3-9 is not required to pay a delinquent title fee**
 38 **under this section unless the individual fails to apply for a**
 39 **certificate of title within sixty (60) days after the vehicle is**
 40 **acquired.**

41 SECTION 7. IC 9-31-2-4 IS AMENDED TO READ AS FOLLOWS
 42 [EFFECTIVE JULY 1, 2008]: Sec. 4. (a) **Except as provided in**

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1 **section 30 of this chapter**, a person acquiring a watercraft from the
 2 owner of the watercraft, whether the owner is a manufacturer, importer,
 3 dealer, or otherwise, does not acquire any right, title, claim, or interest
 4 in or to the watercraft until the person has obtained a certificate of title
 5 to the watercraft. A waiver or estoppel does not operate in favor of the
 6 person against another person having possession of the certificate of
 7 title, or manufacturer's or importer's certificate for the watercraft, for
 8 a valuable consideration.

9 (b) A court may recognize the right, title, claim, or interest of a
 10 person in or to a watercraft sold, disposed of, mortgaged, or
 11 encumbered only if the right, title, claim, or interest:

12 (1) is evidenced by:

13 (A) a certificate of title;

14 (B) **a certificate of title designating a transfer on death**
 15 **beneficiary to the watercraft signed under section 30 of**
 16 **this chapter**; or

17 (C) a manufacturer's or importer's certificate issued under this
 18 chapter; or

19 (2) is evidenced by admission in the pleadings or stipulation of
 20 the parties.

21 SECTION 8. IC 9-31-2-6 IS AMENDED TO READ AS FOLLOWS
 22 [EFFECTIVE JULY 1, 2008]: Sec. 6. (a) **Except as provided in**
 23 **subsection (b)**, an application for a certificate of title shall be filed with
 24 the bureau within thirty-one (31) days after the date of purchase or
 25 transfer. The application must be accompanied by the fee prescribed in
 26 IC 9-29-15-1.

27 (b) **This subsection applies only to a watercraft acquired by a**
 28 **conveyance subject to section 30 of this chapter. An application for**
 29 **a certificate of title shall be filed with the bureau within sixty (60)**
 30 **days after the date of the transfer under section 30 of this chapter.**
 31 **The application must be accompanied by the fee prescribed in**
 32 **IC 9-29-15-1.**

33 SECTION 9. IC 9-31-2-16 IS AMENDED TO READ AS
 34 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 16. (a) If the transfer
 35 of ownership of a watercraft is by operation of law (such as upon
 36 inheritance, devise, bequest, **transfer on death designation in**
 37 **accordance with section 30 of this chapter**, order in bankruptcy,
 38 insolvency, replevin, or execution of sale), if a watercraft is sold to
 39 satisfy a storage or repair charge, or if repossession is had upon default
 40 in performance of the terms of a security agreement, the bureau shall
 41 issue to the applicant a certificate of title to the watercraft upon the
 42 following:

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- 1 (1) **Compliance with any of the following:**
- 2 (A) The surrender of the prior certificate of title. or
- 3 (B) **The surrender of the manufacturer's or importer's**
- 4 certificate. or, when that is not possible, upon
- 5 (C) **Both of the following:**
- 6 (i) **The surrender of a certificate of title designating a**
- 7 **transfer on death beneficiary.**
- 8 (ii) **The submission of proof of the death of the**
- 9 **transferor.**
- 10 (D) **The presentation of satisfactory proof to the bureau of**
- 11 ownership and a right of possession to the watercraft.
- 12 (2) Payment of the fee prescribed under IC 9-29-15-1.
- 13 (3) Presentation of an application for certificate of title.
- 14 (b) A certification by the person or agent of the person to whom
- 15 possession of the watercraft passed setting forth the facts entitling the
- 16 person to possession and ownership, together with a copy of the journal
- 17 entry, court order, or instrument upon which the claim of possession
- 18 and ownership is founded, is satisfactory proof of ownership and right
- 19 of possession.
- 20 (c) If an applicant cannot produce proof of ownership, the applicant
- 21 may apply to the bureau and submit evidence of ownership. If the
- 22 bureau finds the evidence sufficient, the bureau may issue a certificate
- 23 of title. If, from the records of the department, a lien appears to be on
- 24 the watercraft, the certificate of title must contain a statement of the
- 25 lien, unless the application is accompanied by proper evidence of the
- 26 extinction of the lien.
- 27 SECTION 10. IC 9-31-2-30 IS ADDED TO THE INDIANA CODE
- 28 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 29 1, 2008]: **Sec. 30. (a) An individual whose certificate of title for a**
- 30 **watercraft indicates that the individual is the sole owner of the**
- 31 **watercraft may create an interest in the watercraft that is**
- 32 **transferrable on the death of the individual by obtaining a**
- 33 **certificate of title conveying the interest in the watercraft to one (1)**
- 34 **or more named individuals as transfer on death beneficiaries.**
- 35 (b) Subject to subsection (e), an interest in a watercraft
- 36 transferred under this section vests upon the death of the
- 37 transferor.
- 38 (c) A certificate of title that is:
- 39 (1) worded in substance as "A.B. transfers on death to C.D.";
- 40 and
- 41 (2) signed by the transferor;
- 42 is a good and sufficient conveyance on the death of the transferor

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1 to the transferee.

2 (d) A certificate of title obtained under this section is not

3 required to be:

4 (1) supported by consideration; or

5 (2) delivered to the named transfer on death beneficiary;

6 to be effective.

7 (e) Upon the death of an individual conveying an interest in a

8 watercraft in a certificate of title obtained under this section, the

9 interest in the watercraft is transferred to each beneficiary who:

10 (1) is named in the certificate; and

11 (2) survives the transferor.

12 (f) A transfer of an interest in a watercraft under this section is

13 subject to IC 6-4.1.

14 (g) A certificate of title designating a transfer on death

15 beneficiary is not testamentary.

16 SECTION 11. IC 32-21-13 IS ADDED TO THE INDIANA CODE

17 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE

18 JULY 1, 2008]:

19 **Chapter 13. Transfer on Death Deed**

20 **Sec. 1. An individual who owns real property or an interest in**

21 **real property may create an interest in the real property that is**

22 **transferable on the death of the individual by executing and**

23 **recording a deed conveying the interest in the real property to one**

24 **(1) or more named individuals as transfer on death beneficiaries.**

25 **Sec. 2. Subject to section 5 of this chapter, an interest in real**

26 **property transferred in a deed executed under this chapter vests**

27 **upon the death of the grantor.**

28 **Sec. 3. (a) A deed that is:**

29 **(1) worded in substance as "A.B. transfers on death to C.D."**

30 **(here describe the premises) "for the sum of" (here insert the**

31 **consideration, if any); and**

32 **(2) dated and signed, sealed, and acknowledged by the grantor**

33 **(as defined in IC 32-17-1-1);**

34 **is a good and sufficient conveyance on the death of the grantor to**

35 **the grantee.**

36 **(b) A deed executed under this chapter must name a transfer on**

37 **death beneficiary.**

38 **(c) A deed executed under this chapter is not valid unless the**

39 **deed is recorded under IC 32-21-3 in the county in which the real**

40 **property interest transferred in the deed is located.**

41 **Sec. 4. A deed executed under this chapter is not required to be:**

42 **(1) supported by consideration; or**

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(2) delivered to the named transfer on death beneficiary;
to be effective.

Sec. 5. Upon the death of an individual conveying an interest in real property in a deed executed and recorded under this chapter, the interest in real property is transferred to each beneficiary who:

- (1) is named in the deed; and
- (2) survives the grantor.

Sec. 6. The transfer of an interest in real property under section 5 of this chapter must be recorded in the county in which the real property is located, along with the following:

- (1) A certified copy of the death certificate of the deceased grantor of the real property.
- (2) The affidavit of a named beneficiary of the deed executed by the grantor under this chapter containing the following:
 - (A) The name and address of each named beneficiary who survives the grantor.
 - (B) The date of the grantor's death.
 - (C) A description of the real property transferred by the grantor.
 - (D) The name of each named beneficiary who has not survived the grantor.
- (3) A certified copy of the death certificate of any named beneficiary who has not survived the grantor.

Sec. 7. A transfer of an interest in real property under this chapter is subject to the following:

- (1) IC 6-1.1-5.
- (2) IC 6-1.1-5.5.
- (3) IC 6-4.1.

Sec. 8. A deed executed under this chapter is not testamentary.

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