

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 6446

BILL NUMBER: SB 169

NOTE PREPARED: Apr 5, 2011

BILL AMENDED: Jan 31, 2011

SUBJECT: Probate, Trusts, and Transfer on Death Transfers.

FIRST AUTHOR: Sen. Zakas

FIRST SPONSOR: Rep. Foley

BILL STATUS: CR Adopted - 2nd House

FUNDS AFFECTED: **GENERAL**
 DEDICATED
 FEDERAL

IMPACT: No Fiscal Impact

Summary of Legislation: This bill provides that joint owners and other entities that own motor vehicles and watercraft may transfer title to a motor vehicle or watercraft as a transfer on death transaction. (Current law restricts the procedures to individuals who are the sole owners of motor vehicles or watercraft.) It specifies that in the case of an unsupervised estate in which it has been determined that a decedent died intestate, a will may not be probated unless it is presented before a closing statement is filed. It provides that the will of a decedent may be presented to the court for probate and admitted to probate at any time if no estate proceedings have been commenced for the decedent and an asset of the decedent remains titled or registered in the name of the decedent, and that the will may be probated for the sole purpose of transferring ownership of the asset. It also provides that a domiciliary foreign personal representative may exercise all powers of a local unsupervised personal representative. The bill defines "discretionary interest". It specifies that real property transferred to matrimonial trusts for estate planning purposes continues to enjoy the ownership protection of real property owned as joint tenants by the entireties. It provides that the terms of a matrimonial trust may restrict the transfer of matrimonial property. It specifies when property continues to be matrimonial property despite a settlor's death, when claims against the property are barred, and when matrimonial trusts cease to be matrimonial trusts. It also specifies that the transfer at death of an individual retirement account or a similar account or plan or of benefits under an employee benefit plan is not considered a nonprobate transfer. The bill provides that the transfer on death act does not apply to certain transfers of retirement or employee benefits. It provides that the endorsement of the county auditor is not necessary to record a transfer on death deed. It removes a provision prohibiting a surviving spouse's election to take against a will from applying to a valid transfer on death transfer. The bill also provides that the affidavit certifying the death of the transferor and cross-referencing the transferor's transfer on death deed must be endorsed by the county auditor in order to be recorded, and makes technical corrections.

(The introduced version of this bill was prepared by the Probate Code Study Commission.)

Effective Date: (Amended) Upon passage; July 1, 2011.

Explanation of State Expenditures:

Explanation of State Revenues:

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected:

Local Agencies Affected:

Information Sources:

Fiscal Analyst: Jessica Harmon, 317-232-9854.