

ENGROSSED LEGISLATIVE BILL 758

Introduced by von Gillern, 4.

A BILL FOR AN ACT relating to transfers on death; to amend section 60-142.12, Reissue Revised Statutes of Nebraska, and sections 30-2715 and 60-149, Revised Statutes Cumulative Supplement, 2024; to change provisions relating to nontestamentary transfers; to provide a method for a beneficiary charitable organization to receive property or information as prescribed; to create a right of action; to change provisions relating to evidence of ownership for purposes of applying for a new certificate of title; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 30-2715, Revised Statutes Cumulative Supplement, 2024, is amended to read:

30-2715 (a) Subject to sections 30-2333 and 30-2354, a provision for a nonprobate transfer on death in an insurance or annuity policy, account with POD designation as defined in section 30-2716, contract of employment, bond, mortgage, promissory note, certificated or uncertificated security, security registered in beneficiary form, account agreement, custodial agreement, deposit agreement, compensation plan, pension plan, profit-sharing plan, individual retirement plan, employee benefit plan, trust, marital property agreement, certificate of title, or other written instrument of a similar nature is nontestamentary. This subsection includes a written provision that:

(1) money or other benefits due to, controlled by, or owned by a decedent before death must be paid after the decedent's death to a person whom the decedent designates either in the instrument or in a separate writing, including a will, executed either before or at the same time as the instrument, or later;

(2) money due or to become due under the instrument ceases to be payable in the event of death of the promisee or the promisor before payment or demand;

or

(3) any property controlled by or owned by the decedent before death which is the subject of the instrument passes to a person the decedent designates either in the instrument or in a separate writing, including a will, executed either before or at the same time as the instrument, or later.

(b) This section does not limit rights of creditors under other laws of this state.

Sec. 2. (1) If a charitable organization that is tax exempt under section 501(c)(3) of the Internal Revenue Code of 1986 is a beneficiary of an interest in property of a decedent, such charitable organization may present an affidavit to the holder of the interest in the property or to any person with information about the property for the purpose of obtaining the interest in the property or information about the property. Such affidavit shall contain: (a) The decedent's name and last known address; (b) a general description of the property; (c) the charitable organization's name, address, and primary contact information; (d) a statement that the charitable organization is a charitable organization; (e) a request that the property be paid, delivered, or transferred to the charitable organization or that information about the property be given to the charitable organization; (f) a statement that the charitable organization is entitled to payment, delivery, or transfer of the property; (g) a statement that the affidavit has been signed by a duly authorized representative of the charitable organization under penalty of perjury before a notary public; and (h) a statement that the information in the affidavit is true and correct.

(2) Such affidavit shall be accompanied by: (a) A copy of (i) the charitable organization's determination letter from the Internal Revenue Service recognizing the charitable organization's tax-exempt status or (ii) the group exemption letter issued to the organization of which the charitable organization is a part with proof that the charitable organization is included in the group exemption letter from the Internal Revenue Service; (b) a copy of the charitable organization's certificate of existence or document of similar

import from the organization's state or country of incorporation; (c) a copy of the decedent's death certificate, a probate notice published by the personal representative of the decedent's estate, proof of payment of the decedent's funeral, or the decedent's obituary; (d) a corporate resolution or similar statement of authority for the affiant to act on behalf of the charitable organization; and (e) Internal Revenue Service Form W-9 completed by an authorized representative of the charitable organization.

(3) After receipt of an affidavit that meets the requirements of subsections (1) and (2) of this section:

(a) The holder of the interest in property shall pay, deliver, or transfer the property to or for the benefit of the charitable organization, except that payment, delivery, or transfer shall not be required under this section for distributions from a trust or a decedent's estate but shall be made under terms of the trust or will or as otherwise required by law; or

(b) The person with information about the property shall give the information requested in the affidavit to the charitable organization.

(4) The person paying, delivering, or transferring the property or giving the information pursuant to subsection (3) of this section is discharged and released to the same extent as if such person dealt with a personal representative of the decedent. Such person is not required to see to the application of the property or information or to inquire into the truth of any statement in the affidavit.

(5) The charitable organization may bring an action against the holder of the interest in the property to obtain the property or the person with information about the property to obtain the property or the information if the holder or person:

(a)(i) Does not pay, deliver, or transfer such interest in property within forty-five days of receiving the affidavit; or

(ii) Does not respond in writing to provide the information requested within thirty days of receiving the affidavit; and

(b) Does not inform the requesting party, within thirty days of receiving

the affidavit, of a reasonable delay or inability to comply with the affidavit.

A reasonable delay or inability to comply includes:

(i) A delay in the transfer of property to the charitable organization which is subject to a court order; and

(ii) If compliance would cause a financial institution to violate:

(A) 12 U.S.C. 1829b, 12 U.S.C. 1951 to 1960, 31 U.S.C. 5311 to 5314, 31 U.S.C. 5316 to 5336, or 31 C.F.R. 1000 to 1019, as such sections and regulations existed on January 1, 2026; or

(B) The rules of a self-regulatory organization registered under the federal Security Exchange Act of 1934.

(6) The holder of the property or the person with the information shall not:

(a) Require the charitable organization to open an account with or otherwise become a customer of the holder of the property;

(b) Require co-beneficiaries to submit claims simultaneously or impose coordination deadlines among co-beneficiaries;

(c) Delay payment, delivery, or transfer to any co-beneficiary because other co-beneficiaries have not submitted their claim documentation; or

(d) Request personal information from any individual employed by or serving on the board of the charitable organization.

(7) This section does not limit rights of creditors under other laws of this state.

(8) This section does not apply to any organization, society, or person subject to regulation under any insurance law of this or another state.

Sec. 3. Section 60-142.12, Reissue Revised Statutes of Nebraska, is amended to read:

60-142.12 The owner of a former military vehicle may apply for a certificate of title by presenting (1) a manufacturer's certificate of origin, (2) a certificate of title from another state, (3) a court order issued by a court of record, (4) an assigned registration certificate, if the law of the state from which the vehicle was brought into this state does not require a

certificate of title, (5) a United States Government Certificate to Obtain Title to a Vehicle, or (6) evidence of ownership as provided for in section 30-24,125, sections 52-601.01 to 52-605, sections 60-1901 to 60-1911, sections 60-2401 to 60-2411, or section 2 of this act, or documentation of compliance with section 76-1607.

Sec. 4. Section 60-149, Revised Statutes Cumulative Supplement, 2024, is amended to read:

60-149 (1)(a) If a certificate of title has previously been issued for a vehicle in this state, the application for a new certificate of title shall be accompanied by the certificate of title duly assigned except as otherwise provided in the Motor Vehicle Certificate of Title Act.

(b) Except for manufactured homes or mobile homes as provided in subsection (2) of this section, if a certificate of title has not previously been issued for the vehicle in this state or if a certificate of title is unavailable, the application shall be accompanied by:

(i) A manufacturer's or importer's certificate except as otherwise provided in subdivision (viii) of this subdivision;

(ii) A duly certified copy of the manufacturer's or importer's certificate;

(iii) An affidavit by the owner affirming ownership in the case of an all-terrain vehicle, a utility-type vehicle, or a minibike;

(iv) A certificate of title from another state;

(v) A court order issued by a court of record, a manufacturer's certificate of origin, or an assigned registration certificate, if the law of the state from which the vehicle was brought into this state does not have a certificate of title law;

(vi) Evidence of ownership as provided for in section 30-24,125, sections 52-601.01 to 52-605, sections 60-1901 to 60-1911, sections 60-2401 to 60-2411, or section 2 of this act;

(vii) Documentation prescribed in section 60-142.01, 60-142.02, 60-142.04, 60-142.05, 60-142.09, or 60-142.11 or documentation of compliance with section

76-1607;

(viii) A manufacturer's or importer's certificate and an affidavit by the owner affirming ownership in the case of a minitruck;

(ix) In the case of a motor vehicle, a trailer, an all-terrain vehicle, a utility-type vehicle, or a minibike, an affidavit by the holder of a motor vehicle auction dealer's license as described in subdivision (11) of section 60-1406 affirming that the certificate of title is unavailable and that the vehicle (A) is a salvage vehicle through payment of a total loss settlement, (B) is a salvage vehicle purchased by the auction dealer, or (C) has been donated to an organization operating under section 501(c)(3) of the Internal Revenue Code as defined in section 49-801.01; or

(x) A United States Government Certificate to Obtain Title to a Vehicle.

(c) If the application for a certificate of title in this state is accompanied by a valid certificate of title issued by another state which meets that state's requirements for transfer of ownership, then the application may be accepted by this state.

(d) If a certificate of title has not previously been issued for the vehicle in this state and the applicant is unable to provide such documentation, the applicant may apply for a bonded certificate of title as prescribed in section 60-167.

(2)(a) If the application for a certificate of title for a manufactured home or a mobile home is being made in accordance with subdivision (4)(b) of section 60-137 or if the certificate of title for a manufactured home or a mobile home is unavailable, the application shall be accompanied by proof of ownership in the form of:

(i) A duly assigned manufacturer's or importer's certificate;

(ii) A certificate of title from another state;

(iii) A court order issued by a court of record;

(iv) Evidence of ownership as provided for in section 30-24,125, sections 52-601.01 to 52-605, sections 60-1901 to 60-1911, sections 60-2401 to 60-2411, or section 2 of this act, or documentation of compliance with section 76-1607;

or

(v) Assessment records for the manufactured home or mobile home from the county assessor and an affidavit by the owner affirming ownership.

(b) If the applicant cannot produce proof of ownership described in subdivision (a) of this subsection, he or she may submit to the department such evidence as he or she may have, and the department may thereupon, if it finds the evidence sufficient, issue the certificate of title or authorize the county treasurer to issue a certificate of title, as the case may be.

(3) For purposes of this section, certificate of title includes a salvage certificate, a salvage branded certificate of title, or any other document of ownership issued by another state or jurisdiction for a salvage vehicle. Only a salvage branded certificate of title shall be issued to any vehicle conveyed upon a salvage certificate, a salvage branded certificate of title, or any other document of ownership issued by another state or jurisdiction for a salvage vehicle. A previously salvage branded certificate of title may be issued if, prior to application, the applicant's vehicle has been repaired and inspected as provided in section 60-146.

(4) The county treasurer shall retain the evidence of title presented by the applicant and on which the certificate of title is issued.

(5)(a) If an affidavit is submitted under subdivision (1)(b)(ix) of this section, the holder of a motor vehicle auction dealer's license shall certify that (i) it has made at least two written attempts and has been unable to obtain the properly endorsed certificate of title to the property noted in the affidavit from the owner and (ii) thirty days have expired after the mailing of a written notice regarding the intended disposition of the property noted in the affidavit by certified mail, return receipt requested, to the last-known address of the owner and to any lien or security interest holder of record of the property noted in the affidavit.

(b) The notice under subdivision (5)(a)(ii) of this section shall contain a description of the property noted in the affidavit and a statement that title to the property noted in the affidavit shall vest in the holder of the motor

vehicle auction dealer's license thirty days after the date such notice was mailed.

(c) The mailing of notice and the expiration of thirty days under subdivision (5)(a)(ii) of this section shall extinguish any lien or security interest of a lienholder or security interest holder in the property noted in the affidavit, unless the lienholder or security interest holder has claimed such property within such thirty-day period. The holder of a motor vehicle auction dealer's license shall transfer possession of the property noted in the affidavit to the lienholder or security interest holder claiming such property.

Sec. 5. Original section 60-142.12, Reissue Revised Statutes of Nebraska, and sections 30-2715 and 60-149, Revised Statutes Cumulative Supplement, 2024, are repealed.

PRESIDENT OF THE LEGISLATURE

THIS IS TO CERTIFY that the within LB 758 was passed by the One Hundred Ninth Legislature of Nebraska at its Second Session on the day of 20.....

CLERK OF THE LEGISLATURE

Approved:

..... 20....., o'clockM.

GOVERNOR