

2019 SESSION

LEGISLATION NOT PREPARED BY DLS
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19105290D

HOUSE BILL NO. 2796

Offered January 18, 2019

A *BILL to amend and reenact § 29.1-733.20 of the Code of Virginia, relating to the transfer by operation of law; transfer of death.*

Patron—Yancey

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 29.1-733.20 of the Code of Virginia is amended and reenacted as follows:

§ 29.1-733.20. Transfer by operation of law.

A. As used in this section, unless the context requires a different meaning:

"By operation of law" means pursuant to a law or judicial order affecting ownership of a watercraft:

1. Because of death, such as in the case of a legatee, distributee, or surviving joint owner;

2. Because of divorce or other family law proceeding;

3. Because of any written agreement ratified or incorporated in a decree or order of a court of record;

4. Because of merger, consolidation, dissolution, insolvency, or bankruptcy;

5. Because of an execution sale;

6. Through the exercise of the rights of a lien creditor or a person having a lien created by statute or rule of law, including a lien provided for in § 43-34; or

7. *Through the execution of a statement of transfer on death; or*

~~8.~~ 8. Through other legal process.

"Transfer-by-law statement" means a record signed by a transferee stating that by operation of law the transferee has acquired or has the right to acquire an ownership interest in a watercraft.

B. A transfer-by-law statement shall contain:

1. The name and last-known mailing address of the owner of record and the transferee and the other information required by subsection B of § 29.1-733.7;

2. Documentation sufficient to establish the transferee's ownership interest or right to acquire the ownership interest;

3. A statement that:

a. The certificate of title is an electronic certificate of title;

b. The transferee does not have possession of the written certificate of title created in the name of the owner of record; or

c. The transferee is delivering the written certificate to the Department with the transfer-by-law statement;

4. Except for a transfer described in subdivision 1 of the definition of "by operation of law," evidence that notification of the transfer and the intent to file the transfer-by-law statement has been sent to all persons indicated in the files of the Department as having an interest, including a security interest, in the watercraft; and

5. If the owner is dead and no fiduciary has qualified for his estate, an estate statement to the effect that no qualification for the estate has been made, that no qualification is expected, and that the decedent's debts have been paid or that the proceeds from the sale of the watercraft will be applied against his debts. The estate statement shall contain the name, residence at the time of death, and date of death of the decedent and the names of any other persons having an interest in the watercraft for which the transfer of title is sought. If these persons are of legal age, they shall signify in writing their consent to the transfer.

C. Unless the Department rejects a transfer-by-law statement for a reason stated in subsection C of § 29.1-733.8 or because the statement does not include documentation or an estate statement satisfactory to the Department as to the transferee's ownership interest or right to acquire the ownership interest, not later than 20 days after delivery to the Department of the transfer-by-law statement and payment of fees and taxes payable under the law of the Commonwealth other than this article in connection with the statement or with the acquisition or use of the watercraft, the Department shall:

1. Accept the statement;

2. Amend the files of the Department to reflect the transfer; and

3. If the name of the owner whose ownership interest is being transferred is indicated on the certificate of title:

a. Cancel the certificate even if the certificate has not been delivered to the Department;

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- 59 b. Create a new certificate indicating the transferee as owner;
60 c. Indicate on the new certificate any security interest indicated on the canceled certificate, unless a
61 court order provides otherwise; and
62 d. Deliver the new certificate or a record evidencing an electronic certificate.
63 D. This section does not apply to a transfer of an interest in a watercraft by a secured party under
64 Part 6 (§ 8.9A-601 et seq.) of Title 8.9A.
65 2013, c. 787.