

**Second Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO**

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 12-0284.01 Duane Gall x4335

SENATE BILL 12-095

SENATE SPONSORSHIP

Lundberg,

HOUSE SPONSORSHIP

Barker,

Senate Committees
Transportation

House Committees

A BILL FOR AN ACT

101 **CONCERNING REQUIREMENTS FOR THE VALID TRANSFER OF TITLE TO**
102 **A MOTOR VEHICLE.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The bill clarifies the requirements for transfer of title to a motor vehicle when the certificate of title is not available by specifying that:

- ! A bill of sale or other unspecified evidence of ownership is not a valid substitute for the certificate of title; except
- ! Regardless of the age of the vehicle, if the applicant has

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

SENATE
Amended 2nd Reading
March 2, 2012

had a certified vehicle identification number inspection performed on the vehicle, and the applicant presents a bill of sale within 24 months after the sale with the title application, together with an affidavit under penalty of perjury that the documents submitted are true and correct, then the applicant need not furnish a surety bond as would otherwise be required.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 finds, determines, and declares that:

4 (a) The purpose of Senate Bill 12-095, enacted in 2012, is to
5 modernize and make more consistent the provisions of Colorado's motor
6 vehicle registration statutes that deal with documents evidencing
7 ownership of used motor vehicles;

8 (b) With the advent of computerized vehicle identification number
9 inspections, it is appropriate to ease the requirement for the buyer to post
10 a bond in cases in which a paper certificate of title to a motor vehicle
11 cannot readily be obtained; and

12 (c) Nothing in Senate Bill 12-095, enacted in 2012, is intended to,
13 nor shall it be construed to, affect the marketability of antique and
14 collector vehicles nor diminish the security of titles to such vehicles.

15 **SECTION 2.** In Colorado Revised Statutes, **amend** 42-6-109 as
16 follows:

17 **42-6-109. Sale or transfer of vehicle.** (1) Except as provided in
18 section 42-6-113, ~~no~~ A person shall NOT sell or otherwise transfer a motor
19 vehicle to a purchaser or transferee without delivering to ~~such~~ THE
20 purchaser or transferee a certificate of title ~~which may be electronic,~~ to
21 ~~such~~ THE vehicle duly transferred in the manner prescribed in section
22 42-6-110. EXCEPT AS PROVIDED IN SUBSECTION (2) OF THIS SECTION, THE

1 CERTIFICATE OF TITLE MAY BE IN AN ELECTRONIC FORMAT. EXCEPT AS
2 PROVIDED IN SECTION 42-6-115, no purchaser or transferee shall acquire
3 any right, title, or interest in and to a motor vehicle purchased by ~~such~~
4 THE purchaser or transferee unless and until he or she obtains from the
5 transferor the certificate of title duly transferred in accordance with this
6 part 1. A lienholder may request either a paper or electronic version of a
7 certificate of title.

8 (2) EXCEPT AS PROVIDED IN SECTION 42-6-115, a paper copy of a
9 certificate of title ~~shall be~~ IS necessary for any transaction in which:

- 10 (a) Either party to the transaction is located outside Colorado; or
- 11 (b) The purchaser pays for a motor vehicle entirely with cash.

12 **SECTION 3.** In Colorado Revised Statutes, **amend** 42-6-115 as
13 follows:

14 **42-6-115. Furnishing bond for certificates.** (1) (a) If the
15 applicant for a certificate of title to a motor vehicle is unable to provide
16 the director or the authorized agent with a certificate of title duly
17 transferred to such THE applicant a bill of sale, or other evidence of
18 ownership that satisfies SATISFACTORY TO the director that the applicant
19 owns the vehicle AS SPECIFIED IN RULES ESTABLISHED PURSUANT TO
20 SECTION 42-6-104, THE DIRECTOR OR THE AUTHORIZED AGENT MAY FILE
21 a certificate of title for ~~such~~ THE vehicle ~~may be filed by the director or~~
22 ~~the authorized agent upon~~ IF the applicant ~~furnishing~~ FURNISHES the
23 director or the authorized agent with a statement, in ~~such~~ A form as
24 ~~required~~ SPECIFIED by the director, ~~The statement shall contain~~ THAT
25 CONTAINS:

26 (I) A recital of the facts and circumstances by which the applicant
27 acquired the ownership and possession of ~~such~~ THE vehicle;

- 1 (II) The source of the title to the vehicle; and ~~such~~
2 (III) Other information as the director may require to determine:
3 (A) Whether any liens are attached to ~~such~~ THE motor vehicle;
4 (B) The date of the liens;
5 (C) The amount secured by the vehicle;
6 (D) Where ~~such~~ THE liens are of public record; and
7 (E) The right of the applicant to have a certificate of title filed on
8 behalf of the applicant.

9 (b) The statement ~~shall~~ SPECIFIED IN PARAGRAPH (a) OF THIS
10 SUBSECTION (1) MUST contain or be accompanied by a written declaration
11 that it is made under ~~the penalties~~ PENALTY of perjury in the second
12 degree, as defined in section 18-8-503, C.R.S., and ~~shall~~ MUST
13 accompany the application for the certificate as required in section
14 42-6-116.

15 (c) THE DIRECTOR OR THE AUTHORIZED AGENT MAY MAINTAIN any
16 evidence submitted to ~~and maintained by~~ the director or the authorized
17 agent ~~may be maintained~~ in a paper or electronic version.

18 (2) If the director or the authorized agent finds that the applicant
19 is the same person to whom a certificate of title for the vehicle has
20 previously been issued or filed and to whom a license was issued for the
21 year during which the application for ~~such~~ THE certificate of title is made
22 and that a certificate of title should be filed on behalf of the applicant,
23 ~~such~~ THE DIRECTOR OR AUTHORIZED AGENT MAY FILE THE certificate. ~~may~~
24 ~~be filed and disposition of such certificate shall be made as in other cases.~~

25 (3) (a) Except as provided by paragraph (b) of this subsection (3)
26 or section 42-12-402, the department or an authorized agent shall not file
27 a certificate of title under this section until the applicant furnishes

1 evidence of a savings account, deposit, or certificate of deposit meeting
2 the requirements of section 11-35-101, C.R.S., or a good and sufficient
3 bond with a corporate surety, to the state, in an amount ~~to be~~ fixed by the
4 director, not less than twice the reasonable value of the vehicle
5 determined as of the time of application. The applicant and the applicant's
6 surety shall hold harmless any person who suffers loss or damage by
7 reason of the filing of a certificate under this section.

8 (b) If the vehicle for which the certificate is filed is twenty-five
9 years old or older, the applicant has had a certified vehicle identification
10 number inspection performed on the vehicle, and the applicant presents
11 a notarized bill of sale within twenty-four months after the sale with the
12 title application, ~~then~~ the applicant need not furnish surety under this
13 subsection (3). To be excepted from the surety requirement, an applicant
14 shall submit an affidavit to the department that is sworn to under penalty
15 of perjury that states that the required documents submitted are true and
16 correct.

17 (4) If any person suffers loss or damage by reason of the filing of
18 the certificate of title as provided in this section, ~~such~~ THE person ~~shall~~
19 ~~have~~ HAS a right of action against the applicant and the surety on the
20 applicant's bond against either of whom the person damaged may proceed
21 independently of the other.

22 **SECTION 4. Act subject to petition - effective date -**
23 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
24 the expiration of the ninety-day period after final adjournment of the
25 general assembly (August 7, 2012, if adjournment sine die is on May 9,
26 2012); except that, if a referendum petition is filed pursuant to section 1
27 (3) of article V of the state constitution against this act or an item, section,

1 or part of this act within such period, then the act, item, section, or part
2 will not take effect unless approved by the people at the general election
3 to be held in November 2012 and, in such case, will take effect on the
4 date of the official declaration of the vote thereon by the governor.

5 (2) The provisions of this act apply to applications for certificates
6 of title made on or after the applicable effective date of this act.