STATE OF NEBRASKA
Office of the Attorney General
2115 STATE CAPITOL BUILDING
LINCOLN, NEBRASKA 68509-8920
(402) 471-2682
TDD (402) 471-2682
CAPITOL FAX (402) 471-3297
1235 K ST. FAX (402) 471-4725

#96012

DON STENBERG
ATTORNEY GENERAL

NO.
STATE OF NEBRASKA
OFFICIAL
FEB 20 1996
DEPT. OF JUSTICE

STEVE GRASZ
LAURIE SMITH CAMP
DEPUTY ATTORNEYS GENERAL

DATE: February 20, 1996

REQUESTED BY: Alvin Abramson, Director
Nebraska Department of Motor Vehicles

WRITTEN BY: Don Stenberg, Attorney General
Paul N. Potadle, Assistant Attorney General

QUESTION: Whether an assignment of an out-of-state certificate of title, issued in the name of A and B, A or B, or A and/or B, must be executed by all persons named in the certificate.

ANSWER: An assignment of an out-of-state certificate of title that has been issued in the name of A and B, A or B, or A and/or B, must be executed by all persons named in the certificate.

DISCUSSION

On March 1, 1949, this office issued it's Attorney General's Opinion to F.H. Klietsch, Director, Motor Vehicle Division, Department of Roads and Irrigation, and stated that "where a `certificate of title' has been issued in the names of A and B, A or B, A and/or B, an assignment of the `certificate of title,' must be executed by all persons named in the `certificate of title', Section 60-104, R.S. Supp. 1947, since each has vested interest in the title".

The 1949 Attorney General's Opinion advised that an assignment be executed by all persons, including where the certificate of title was in the name of the husband and wife. Today, Neb. Rev. Stat. § 60-106(6)(a) (1994 Cum.Supp.) provides:

David K. Arterburn
L. Jay Bartel
J. Kirk Brown
David T. Bydalek
Delores N. Coe-Barbee
Dale A. Comer
James A. Elworth
Lynne R. Fritz
Royce N. Harper
Lauren Lee Hill
Jay C. Hinsley
Amy Hollenbeck
William L. Howland
Marilyn B. Hutchinson
Kimberly A. Klein
Joseph P. Loudon
Charles E. Lowe
Lisa D. Martin-Price
Lynn A. Melson
Ronald D. Moravec
Fredrick F. Neid
Marie C. Pawol
Kenneth W. Payne
Alan E. Pedersen
Paul N. Potadle
Hobert B. Rupe
James D. Smith
James H. Spears
Mark D. Starr
Timothy J. Texel
John R. Thompson
Barry Waid
Terri M. Weeks
Alfonza Whitaker
Melanie J. Whittamore-Mantzios
Linda L. Willard

Printed with soy ink on recycled paper

> In the case of the sale of a motor vehicle, the certificate of title shall be obtained in the name of the purchaser upon application signed by the purchaser, except that (a) for titles to be held by husband and wife, applications may be accepted upon the signature of either one as a signature for himself or herself and as agent for his or her spouse. . . .

Although the Legislature has authorized one spouse to receive title to a motor vehicle on behalf of both spouses, it has not authorized one spouse -- or other co-owner of a vehicle -- to relinquish title on behalf of all owners.

According to your opinion request "the State laws of Iowa, Kansas, South Dakota, and at least thirteen other states permit the transfer of a vehicle title with only one owner's signature". Nebraska does respect out-of-state rights, however, comity is neither a matter of absolute obligation or mere courtesy or good will, but is the doctrine under which contracts made, rights acquired, and obligations incurred in one state are enforced by the court of another state unless there is some definite public policy preventing recognition of such right of title. ***Universal C.I.T. Credit Corporation v. Hans Vogt***, 165 Neb. 611, 617, 86 N.W.2d 771, 775 (1957) [quoting ***Green Finance Co. v. Becker***, 151 Neb. 479, 486-87, 37 N.W.2d 794, 798 (1949)].

Authority for the requirement that an assignment of an out-of-state certificate of title be executed by all persons named in the title is stated in the March 1, 1949, opinion. The case law cited in the 1949 opinion has not been overruled. ***See, e.g., Loyal Auto Exchange, Inc. v. Munch***, 153 Neb. 628, 45 N.W.2d 913 (1951).

> From a study of the act, particularly sections 60-104, 60-105 and 60-107, R.S. Supp. 1949, and sections 60-106, 60-108, and 60-117, R.S. 1943, it is clear that the legislation contemplates that the forms provided therein must be fully and properly executed in order to meet the requirements thereof.

Id. at 641, 45 N.W.2d at 921. (Emphasis added).

For an assignment to be "fully and properly" executed for an out-of-state certificate of title that has been issued in the names

of A <u>and</u> B, A <u>or</u> B, or A <u>and/or</u> B, the assignment must be executed by all persons named in the certificate.

Sincerely yours,

DON STENBERG
Attorney General

Paul N. Potadle
Assistant Attorney General

Approved By:

Attorney General

46-1817-3