

## **BILL ANALYSIS**

C.S.H.B. 1753  
By: Farrar  
Judiciary & Civil Jurisprudence  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

According to interested parties, there is currently no mechanism for the owner of a motor vehicle to arrange for the transfer of the vehicle at the owner's death without going through probate. The parties note that for many low income individuals, a car is their only asset, and the cost of probate can be more than the vehicle is worth. C.S.H.B. 1753 seeks to address this issue by authorizing a beneficiary designation outside of probate that transfers certain motor vehicles at the owner's death.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Department of Motor Vehicles in SECTION 3 of this bill.

### **ANALYSIS**

C.S.H.B. 1753 amends the Estates Code to authorize an owner of a motor vehicle to transfer the owner's interest in the motor vehicle to a sole beneficiary effective on the owner's death by designating a beneficiary as provided by the bill's provisions. Such a beneficiary designation is revocable and may be changed at any time without the consent of the designated beneficiary, is a nontestamentary instrument, and is effective without notice or delivery to or acceptance by the designated beneficiary during the owner's life or consideration. The bill prohibits a will from revoking or superseding a beneficiary designation made under the bill's provisions and authorizes a designated beneficiary to disclaim the designated beneficiary's interest in the motor vehicle as provided by the Texas Uniform Disclaimer of Property Interests Act. The bill includes in the definition of "beneficiary," as that term relates to a disclaimer of interest or power, a person who would have been entitled, if the person had not made a disclaimer, to receive property as a result of the death of another person by a beneficiary designation made under the bill's provisions.

C.S.H.B. 1753 requires a beneficiary designation, if a motor vehicle that is subject of the beneficiary designation is owned by joint owners with right of survivorship, to be made by all of the joint owners. The bill authorizes a beneficiary designation made by joint owners with right of survivorship to be revoked or changed only if it is revoked or changed by all of the joint owners or by the last surviving joint owner. The bill establishes that, during a motor vehicle owner's life, a beneficiary designation does not affect an interest or right of the owner or owners making the designation, including the right to transfer or encumber the motor vehicle that is the subject of the designation; does not create a legal or equitable interest in favor of the designated beneficiary in the motor vehicle that is the subject of the designation, even if the beneficiary has actual or

constructive notice of the designation; does not affect an interest or right of a secured or unsecured creditor or future creditor of the owner or owners making the designation, even if the creditor has actual or constructive notice of the designation; and does not affect an owner's or the designated beneficiary's eligibility for any form of public assistance, subject to applicable federal law.

C.S.H.B. 1753 makes the following rules applicable to an interest in a motor vehicle that is the subject of a beneficiary designation on the death of the motor vehicle's owner: if the designated beneficiary survives the owner making the designation by 120 hours, the interest in the motor vehicle is transferred to the designated beneficiary and, if the designated beneficiary fails to survive the owner making the designation by 120 hours, the share of the designated beneficiary lapses and is subject to and passes in accordance with statutory provisions relating to the disposition of property to a devisee who predeceases a testator as if the beneficiary designation were a devise made in a will. The bill establishes that if an owner is a joint owner with right of survivorship who is survived by one or more other joint owners, the motor vehicle that is the subject of the beneficiary designation belongs to the surviving joint owner or owners. If an owner is a joint owner with right of survivorship who is the last surviving joint owner, the beneficiary designation is effective. A designated beneficiary takes the motor vehicle subject to all encumbrances, assignments, contracts, liens, and other interests to which the vehicle is subject at the owner's or last surviving owner's death, as applicable. The transfer to the designated beneficiary expressly does not affect the ability of a lienholder to pursue an existing means of debt collection permitted under state law.

C.S.H.B. 1753 makes certain statutory provisions relating to creditors' claims on transfer on death deed property and liability for creditors' claims applicable to a transfer of an owner's interest in a motor vehicle by a beneficiary designation in the same manner and to the same extent as a transfer of real property under a transfer on death deed.

C.S.H.B. 1753 amends the Transportation Code to authorize the owner of a motor vehicle to designate a sole beneficiary to whom the owner's interests in the vehicle transfers on the owner's death by submitting an application for title with the designation. The bill requires the designation, to be effective, to state that the transfer of an interest in the vehicle to the designated beneficiary is to occur at the transferor's death. The bill requires the legal name of the designated beneficiary to be included on the title. The bill requires the Texas Department of Motor Vehicles (TxDMV) to transfer title of a motor vehicle to a designated beneficiary for the vehicle if the beneficiary submits an application for title not later than the 180th day after the date of the owner's death or, if the vehicle is owned by joint owners, the last surviving owner's death, as applicable, and the beneficiary submits satisfactory proof of the death of the owner or owners, as applicable. The bill authorizes a beneficiary designation to be changed or revoked by submitting a new application for title. The bill invalidates a beneficiary designation or a change or revocation of a beneficiary designation made on an application for title of a motor vehicle that has not been submitted to TxDMV before the death of a vehicle's owner or owners who made, changed, or revoked the designation, as applicable. The bill authorizes TxDMV to adopt rules to administer these provisions.

#### **EFFECTIVE DATE**

September 1, 2017.

#### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 1753 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Subtitle C, Title 2, Estates Code, is amended by adding Chapter 115 to read as follows:

CHAPTER 115. BENEFICIARY DESIGNATION FOR MOTOR VEHICLES  
Sec. 115.001. DEFINITIONS. In this chapter:

(1) "Beneficiary designation" means the designation by an owner of a motor vehicle of a beneficiary of the vehicle as provided by Section 501.0315, Transportation Code.

(2) "Designated beneficiary" means a person designated as a beneficiary of an owner's interest in a motor vehicle under Section 501.0315, Transportation Code.

(3) "Joint owner with right of survivorship" or "joint owner" means a person who owns a motor vehicle concurrently with one or more other persons with a right of survivorship. The term does not include an owner of community property with or without a right of survivorship.

(4) "Motor vehicle" has the meaning assigned by Section 501.002, Transportation Code, except that the term does not include an all-terrain vehicle or a recreational off-highway vehicle, as those terms are defined by Section 502.001, Transportation Code, designed by the manufacturer for off-highway use that is not required to be registered under the laws of this state.

(5) "Person" has the meaning assigned by Section 311.005, Government Code.

Sec. 115.002. BENEFICIARY DESIGNATION AUTHORIZED.

Sec. 115.003. JOINT OWNERSHIP.

Sec. 115.004. EFFECT OF BENEFICIARY DESIGNATION DURING OWNER'S LIFE.

Sec. 115.005. EFFECT OF BENEFICIARY DESIGNATION AT OWNER'S OR LAST SURVIVING OWNER'S DEATH.

Sec. 115.006. CREDITOR CLAIMS; ALLOWANCES IN LIEU OF EXEMPT PROPERTY AND FAMILY ALLOWANCES.

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Subtitle C, Title 2, Estates Code, is amended by adding Chapter 115 to read as follows:

CHAPTER 115. BENEFICIARY DESIGNATION FOR MOTOR VEHICLES  
Sec. 115.001. DEFINITIONS. In this chapter:

(1) "Beneficiary designation" means the designation by an owner of a motor vehicle of a beneficiary of the vehicle as provided by Section 501.0315, Transportation Code.

(2) "Designated beneficiary" means a person designated as a beneficiary of an owner's interest in a motor vehicle under Section 501.0315, Transportation Code.

(3) "Joint owner with right of survivorship" or "joint owner" means a person who owns a motor vehicle concurrently with one or more other persons with a right of survivorship. The term does not include an owner of community property with or without a right of survivorship.

(4) "Motor vehicle" has the meaning assigned by Section 501.002, Transportation Code.

(5) "Person" has the meaning assigned by Section 311.005, Government Code.

Sec. 115.002. BENEFICIARY DESIGNATION AUTHORIZED

Sec. 115.003. JOINT OWNERSHIP.

Sec. 115.004. EFFECT OF BENEFICIARY DESIGNATION DURING OWNER'S LIFE.

Sec. 115.005. EFFECT OF BENEFICIARY DESIGNATION AT OWNER'S OR LAST SURVIVING OWNER'S DEATH.

Sec. 115.006. CREDITOR CLAIMS; ALLOWANCES IN LIEU OF EXEMPT PROPERTY AND FAMILY ALLOWANCES.

SECTION 2. Section 122.001(1), Estates Code, is amended.

SECTION 3. Subchapter B, Chapter 501, Transportation Code, is amended by adding Section 501.0315 to read as follows:

Sec. 501.0315. BENEFICIARY DESIGNATION.

(a) Notwithstanding Section 501.002, in this section, "motor vehicle" does not include an all-terrain vehicle or a recreational off-highway vehicle, as those terms are defined by Section 502.001, designed by the manufacturer for off-highway use that is not required to be registered under the laws of this state.

(b) The owner of a motor vehicle may designate a sole beneficiary to whom the owner's interest in the vehicle transfers on the owner's death as provided by Chapter 115, Estates Code, by submitting an application for title under Section 501.023 with the designation. To be effective, the designation must state that the transfer of an interest in the vehicle to the designated beneficiary is to occur at the transferor's death.

(c) The legal name of a beneficiary designated under this section must be included on the title.

(d) The department shall transfer title of a motor vehicle to a beneficiary designated under this section for the vehicle if the beneficiary submits:

(1) an application for title under Section 501.023 not later than the 180th day after the date of the owner's death or, if the vehicle is owned by joint owners, the last surviving owner's death, as applicable; and

(2) satisfactory proof of the death of the owner or owners, as applicable.

(e) A beneficiary designation may be changed or revoked by submitting a new application for title under Section 501.023.

(f) A beneficiary designation or a change or revocation of a beneficiary designation made on an application for title of a motor vehicle that has not been submitted to the department before the death of a vehicle's owner or owners who made, changed, or revoked the designation, as applicable, is invalid.

(g) The department may adopt rules to administer this section.

SECTION 2. Same as introduced version.

SECTION 3. Subchapter B, Chapter 501, Transportation Code, is amended by adding Section 501.0315 to read as follows:

Sec. 501.0315. BENEFICIARY DESIGNATION.

(a) The owner of a motor vehicle may designate a sole beneficiary to whom the owner's interest in the vehicle transfers on the owner's death as provided by Chapter 115, Estates Code, by submitting an application for title under Section 501.023 with the designation. To be effective, the designation must state that the transfer of an interest in the vehicle to the designated beneficiary is to occur at the transferor's death.

(b) The legal name of a beneficiary designated under this section must be included on the title.

(c) The department shall transfer title of a motor vehicle to a beneficiary designated under this section for the vehicle if the beneficiary submits:

(1) an application for title under Section 501.023 not later than the 180th day after the date of the owner's death or, if the vehicle is owned by joint owners, the last surviving owner's death, as applicable; and

(2) satisfactory proof of the death of the owner or owners, as applicable.

(d) A beneficiary designation may be changed or revoked by submitting a new application for title under Section 501.023.

(e) A beneficiary designation or a change or revocation of a beneficiary designation made on an application for title of a motor vehicle that has not been submitted to the department before the death of a vehicle's owner or owners who made, changed, or revoked the designation, as applicable, is invalid.

(f) The department may adopt rules to administer this section.

SECTION 4. This Act takes effect  
September 1, 2017.

SECTION 4. Same as introduced version.