

## **BILL ANALYSIS**

S.B. 649  
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Pensions  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Interested parties report that the Real Estate, Probate, and Trust Law section of the State Bar of Texas has proposed several updates to the law regarding decedents' estates, including provisions modernizing the exemption of certain insurance and annuity benefits from seizure by creditors. These parties note that certain insurance proceeds are currently exempt from seizure by creditors and that a discrepancy exists as to whether that exemption continues if such proceeds are paid to the estate of the insured decedent.

These parties also note that deductible contributions to a traditional individual retirement account and nondeductible contributions to a Roth IRA are currently exempt from seizure by creditors but that there is no such exemption provided for nondeductible contributions to a traditional individual retirement account. Consequently, interested parties assert that courts or parties to a suit must then determine whether the taxpayer claimed a deduction for all contributions to a traditional individual retirement account in order to determine what portion of the account is exempt. S.B. 649 seeks to simplify the administration of this statute by extending the exemption to nondeductible contributions to a traditional individual retirement account. The bill also seeks to amend current law relating to the exemption of certain insurance and annuity benefits from various forms of seizure by creditors.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

S.B. 649 amends the Insurance Code to make provisions establishing that exemptions from seizure for certain insurance and annuity benefits are unaffected by beneficiary designation apply regardless of whether the insured or the insured's estate is a beneficiary, rather than a contingent beneficiary.

S.B. 649 amends the Property Code to clarify that the exemption from attachment, execution, and seizure for the satisfaction of debts that applies to a person's right to the assets held in or to receive payments under certain savings plans includes a person's right to the assets held in or to receive payments under a Roth IRA or an inherited Roth IRA. The bill establishes that contributions to an individual retirement account that exceed the amounts permitted under the applicable provisions of the federal Internal Revenue Code of 1986, rather than contributions to an individual retirement account other than contributions to a Roth IRA or an annuity that exceed the amounts deductible under the applicable provisions of that code, and any accrued earnings on such contributions are not so exempt unless otherwise exempt by law.

### **EFFECTIVE DATE**

September 1, 2013.