

## **BILL ANALYSIS**

S.B. 1940  
By: Hughes  
Judiciary & Civil Jurisprudence  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

The bill sponsor has informed the committee that current law lacks a statutory mechanism explicitly allowing for the direct designation of a beneficiary for manufactured homes, which causes potential complications in probate and inheritance proceedings. The bill sponsor has also informed the committee that constituents, estate planners, and legal professionals have identified the need for a streamlined process similar to transfer-on-death designations available for other types of property, such as motor vehicles and real estate, and that addressing this gap will simplify estate planning and reduce the burden on heirs as they navigate the probate process. S.B. 1940 seeks to provide for a legal framework for the designation of a beneficiary for manufactured homes classified as personal property by allowing ownership to transfer directly on the owner's death and by establishing legal definitions and procedures for this new form of transfer.

### **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 Housing and Community Affairs in SECTION 3 of this bill.

### **ANALYSIS**

S.B. 1940 sets out procedures for making a beneficiary designation that transfers a manufactured home classified as personal property at the owner's death.

#### **Estates Code Provisions**

S.B. 1940 amends the Estates Code to authorize an owner of a manufactured home, defined by reference to Occupations Code regulations for such homes, that is classified as personal property under state law to transfer the owner's interest in the home to one or more beneficiaries effective on the owner's death by designating each person as a beneficiary of that interest as provided by the bill's Occupations Code provisions. The bill establishes the following with respect to such a beneficiary designation:

- a designation is revocable and may be changed at any time without the consent of the designated beneficiaries, subject to the bill's restrictions on changes to a designation made by joint owners with right of survivorship;
- a designation is a nontestamentary instrument; and
- a designation is effective without consideration or notice or delivery to or acceptance by the designated beneficiaries during the owner's life.

The bill prohibits a will from revoking or superseding a beneficiary designation, regardless of when the will is made. A designated beneficiary may disclaim their interest in the manufactured home as provided under the Texas Uniform Disclaimer of Property Interests Act.

S.B. 1940 requires a beneficiary designation for a manufactured home that is owned by joint owners with right of survivorship to be made by all of the joint owners. For the bill's purposes, "joint owner with right of survivorship" or "joint owner" means a person who owns a manufactured home concurrently with one or more other persons with a right of survivorship, excluding an owner of community property with or without a right of survivorship. The bill establishes that a beneficiary designation made by joint owners with right of survivorship may be revoked or changed only if it is revoked or changed by all of the joint owners and may be revoked or changed by the last surviving joint owner.

S.B. 1940 establishes that during a manufactured home owner's life, a beneficiary designation does not do the following:

- affect an interest or right of the owner or owners making the designation, including the right to transfer or encumber the home that is the subject of the designation;
- create a legal or equitable interest in favor of a designated beneficiary in the home that is the subject of the designation, even if the beneficiary has actual or constructive notice of the designation;
- 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; or
- affect an owner's or any designated beneficiary's eligibility for any form of public assistance, subject to applicable federal law.

S.B. 1940 establishes that on the death of the owner of a manufactured home that is the subject of a beneficiary designation, the following rules apply to an interest in the home:

- if any designated beneficiary survives the owner making the designation by 120 hours, the interest in the home is transferred to each surviving designated beneficiary; and
- if each designated beneficiary fails to survive the owner making the designation by 120 hours, the share of each designated beneficiary lapses, notwithstanding statutory provisions relating to validity of certain nontestamentary instruments and provisions, and is subject to and passes in accordance with statutory provisions relating to disposition of property to a devisee who predeceases the testator as if each 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 manufactured home that is the subject of a beneficiary designation belongs to the surviving joint owner or owners and, 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 manufactured home subject to all encumbrances, assignments, contracts, liens, and other interests to which the home is subject at the owner's or last surviving owner's death, as applicable. The bill establishes that the transfer to one or more designated beneficiaries does not affect the ability of a lienholder to pursue an existing means of debt collection permitted under state laws.

S.B. 1940 makes certain statutory provisions relating to creditors' claims in relation to a transfer on death deed applicable to a transfer of an owner's interest in a manufactured home 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.

S.B. 1940 expands the definition of "beneficiary" for purposes of statutory provisions governing disclaimers of interest or power to include 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 for a manufactured home.

## **Occupations Code Provisions**

S.B. 1940 amends the Occupations Code to authorize the owner of a manufactured home to designate one or more beneficiaries to whom the owner's interest in the home transfers on the owner's death by submitting an application for the issuance of a new statement of ownership with the designation. The bill requires the legal name of each designated beneficiary to be included on the statement of ownership and conditions the designation's effectiveness on it stating that the transfer of an interest in the home to one or more designated beneficiaries is to occur at the transferor's death.

S.B. 1940 requires the Texas Department of Housing and Community Affairs (TDHCA), operating through its manufactured housing division, to transfer ownership of a manufactured home to the designated beneficiary or beneficiaries, as applicable, for the home if the sole beneficiary submits or all beneficiaries jointly submit, as applicable, the following:

- an application for the issuance of a statement of ownership not later than the 365th day after the date of the owner's death or, if the home is owned by joint owners, the last surviving owner's death, as applicable; and
- satisfactory proof of the death of the owner or owners, as applicable.

The bill makes such a beneficiary designation for a manufactured home void if an application and proof are not submitted to TDHCA before the 366th day after the date of the owner's death, or if the home is owned by joint owners, the last surviving owner's death. The bill authorizes a beneficiary designation to be changed or revoked by submitting a new application for the issuance of a statement of ownership. However, the bill makes invalid a beneficiary designation or a change or revocation of a beneficiary designation made on such an application for a manufactured home that has not been submitted to TDHCA before the death of a home's owner or owners who made, changed, or revoked the designation, as applicable. The bill requires an application for issuance of a statement of ownership designating a beneficiary that is mailed to TDHCA to be mailed by certified or registered mail, return receipt requested. The application is considered submitted to TDHCA on the date the certified or registered mail is postmarked.

S.B. 1940 authorizes TDHCA to adopt rules to administer the bill's Occupations Code provisions.

### **EFFECTIVE DATE**

September 1, 2025.