

Memorandum 90-43

Subject: Study L-3025 - TOD Registration of Vehicles and Vessels
(Comments of DMV and Department of Housing and Community
Development)

Attached is a staff draft of a proposal drawn from Missouri law to permit registration and title to vehicles and vessels to designate a beneficiary to receive title at death of the owner. The Commission considered this proposal at the March meeting. It was supported by the Legislative Committee of the Beverly Hills Bar Association Probate, Trust and Estate Planning Section, but was opposed by the Executive Committee of the State Bar Estate Planning, Trust and Probate Law Section.

The Commission asked the staff to get comments from the Department of Motor Vehicles and Department of Housing and Community Development. The initial responses of DMV and the Department of Housing and Community Development are attached as Exhibits 1 and 2. Both departments have serious reservations about the proposal. Both said it would require a large one-time data processing expense. DMV estimated this to be around \$250,000. The Department of Housing and Community Development said it would be "in the hundreds of thousands of dollars."

The staff wrote both departments a second time to ask what the effect would be on reprogramming costs if the proposal were revised to permit designation of only one TOD beneficiary. DMV said the "number of TOD beneficiaries designated would not alter the \$250,000 estimated costs for programming changes." This letter is attached as Exhibit 3. The Department of Housing and Community Development said that limiting the TOD beneficiary to one person "would avoid the substantial cost to the department to expand the owner name section," and that "an estimated cost of \$60,000 to \$80,000 would be incurred for changes to the data processing system to recognize the TOD abbreviation, to differentiate the owner's name(s) and to provide a record under the beneficiary's name which cross references to the manufactured home, mobilehome, etc. record." This letter is attached as Exhibit 4.

In view of the opposition of the Executive Committee of the State Bar Probate Section and the significant reprogramming costs estimated by the two affected departments, the staff thinks it is probably not feasible to pursue this proposal. Does the Commission agree?

Respectfully submitted,

Robert J. Murphy III
Staff Counsel

Staff Draft

TOD DESIGNATION FOR STATE-REGISTERED
VEHICLES AND VESSELS

Health & Safety Code § 18080.2 (added). Ownership of manufactured home, mobilehome, commercial coach, truck camper, or floating home in beneficiary form

SEC. _____. Section 18080.2 is added to the Health and Safety Code, to read:

18080.2. (a) Ownership registration and title to a manufactured home, mobilehome, commercial coach, truck camper, or floating home subject to registration may be held in beneficiary form that includes a direction to transfer ownership of the manufactured home, mobilehome, commercial coach, truck camper, or floating home to one or more designated beneficiaries on death of the sole owner or last surviving coowner. A certificate of title issued in beneficiary form shall include, after the name of the owner or names of the coowners, the words "transfer on death to" or the abbreviation "TOD" followed by the name of the beneficiary or beneficiaries.

(b) During the lifetime of a sole owner or of any coowner, the signature or consent of a beneficiary is not required for any transaction relating to the manufactured home, mobilehome, commercial coach, truck camper, or floating home for which a certificate of ownership in beneficiary form has been issued.

Comment. Section 18080.2 is new and is drawn from Missouri law. See Mo. Ann. Stat. § 301.681 (Vernon Supp. 1989). The language of Section 18080.2 is conformed to the usage in this article. See, e.g., Health & Safety Code § 18080.

Unlike Missouri law, Section 18080.2 permits designation of multiple beneficiaries, consistent with the POD designation permitted in favor of multiple beneficiaries under the California Multiple-Party Accounts Law. See Prob. Code § 5302.

See also Health & Safety Code § 18102.2; Veh. Code §§ 4150.7, 5910.5, 9852.7, 9916.5.

Health & Safety Code § 18102.2 (added). Transfer of manufactured home, mobilehome, commercial coach, truck camper, or floating home owned in beneficiary form

SEC. _____. Section 18102.2 is added to the Health and Safety Code, to read:

18102.2. (a) On death of a sole owner or the last surviving coowner of a manufactured home, mobilehome, commercial coach, truck camper, or floating home owned in beneficiary form, the manufactured home, mobilehome, commercial coach, truck camper, or floating home belongs to the surviving beneficiary or beneficiaries, if any. If there is no surviving beneficiary, the manufactured home, mobilehome, commercial coach, truck camper, or floating home belongs to the estate of the deceased owner or of the last coowner to die.

(b) A certificate of title in beneficiary form may be revoked or the beneficiary changed at any time before the death of a sole owner or of the last surviving coowner by either of the following methods:

(1) By sale of the manufactured home, mobilehome, commercial coach, truck camper, or floating home, with proper assignment and delivery of the certificate of title to another person.

(2) By application for a new certificate of title without designation of a beneficiary or with the designation of a different beneficiary or beneficiaries.

(c) Except as provided in subdivision (b), designation of a beneficiary in a certificate of title issued in beneficiary form may not be changed or revoked by will, by any other instrument, by a change of circumstances, or otherwise.

(d) The beneficiary's interest in the manufactured home, mobilehome, commercial coach, truck camper, or floating home at death of the owner or last surviving coowner is subject to any contract of sale, assignment, or security interest to which the owner or coowners were subject during their lifetimes.

(e) The surviving beneficiary or beneficiaries may secure a transfer of ownership for the manufactured home, mobilehome, commercial coach, truck camper, or floating home upon presenting to the department all of the following:

(1) The appropriate certificate of title and registration card, if available.

(2) A certificate under penalty of perjury stating the date and place of the decedent's death and that the declarant is entitled to the manufactured home, mobilehome, commercial coach, truck camper, or floating home as the designated beneficiary.

(3) If required by the department, a certificate of the death of the decedent.

(f) A transfer at death pursuant to this section is effective by reason of this section, and shall not be deemed to be a testamentary disposition of property. The right of the designated beneficiary to the manufactured home, mobilehome, commercial coach, truck camper, or floating home shall not be denied, abridged, or affected on the grounds that the right has not been created by a writing executed in accordance with the laws of this state prescribing the requirements to effect a valid testamentary disposition of property.

(g) If there is no surviving beneficiary or coowner, the person or persons described in Section 18102 may secure transfer of the manufactured home, mobilehome, commercial coach, truck camper, or floating home as provided in that section.

(h) The department may prescribe forms for use pursuant to this section.

Comment. Section 18102.2 is new. Subdivisions (a) through (d) are drawn from Missouri law. See Mo. Ann. Stat. § 301.681 (Vernon Supp. 1989). Subdivision (e) is drawn from Health and Safety Code Section 18102(b) and Vehicle Code Sections 5910(b) and 9916(b). Subdivision (f) is drawn from Probate Code Section 5304. Subdivision (h) is drawn from Vehicle Code Section 5910(c). See also Health & Safety Code § 18080.2; Veh. Code §§ 4150.7, 5910.5, 9852.7, 9916.5.

Vehicle Code § 4150.7 (added). Ownership of vehicle in beneficiary form

SEC. _____. Section 4150.7 is added to the Vehicle Code, to read:

4150.7. (a) Ownership of title to a vehicle subject to registration may be held in beneficiary form that includes a direction to transfer ownership of the vehicle to one or more designated beneficiaries on death of the sole owner or last surviving coowner. A certificate of ownership issued in beneficiary form shall include, after the name of the owner or names of the coowners, the words "transfer on death to" or the abbreviation "TOD" followed by the name of the beneficiary or beneficiaries.

(b) During the lifetime of a sole owner or of any coowner, the signature or consent of a beneficiary is not required for any transaction relating to the vehicle for which a certificate of ownership in beneficiary form has been issued.

Comment. Section 4150.7 is new and is drawn from Missouri law. See Mo. Ann. Stat. § 301.681 (Vernon Supp. 1989). See also Health & Safety Code §§ 18080.2, 18102.2; Veh. Code §§ 5910.5, 9852.7, 9916.5.

Unlike Missouri law, Section 4150.7 permits designation of multiple beneficiaries, consistent with the POD designation permitted in favor of multiple beneficiaries under the California Multiple-Party Accounts Law. See Prob. Code § 5302.

Vehicle Code § 5910.5 (added). Transfer of vehicle owned in beneficiary form

SEC. _____. Section 5910.5 is added to the Vehicle Code, to read:

5910.5. (a) On death of a sole owner or the last surviving coowner of a vehicle owned in beneficiary form, the vehicle belongs to the surviving beneficiary or beneficiaries, if any. If there is no surviving beneficiary, the vehicle belongs to the estate of the deceased owner or of the last coowner to die.

(b) A certificate of ownership in beneficiary form may be revoked or the beneficiary changed at any time before the death of a sole owner or of the last surviving coowner by either of the following methods:

(1) By sale of the vehicle with proper assignment and delivery of the certificate of ownership to another person.

(2) By application for a new certificate of ownership without designation of a beneficiary or with the designation of a different beneficiary or beneficiaries.

(c) Except as provided in subdivision (b), designation of a beneficiary in a certificate of ownership issued in beneficiary form may not be changed or revoked by will, by any other instrument, by a change of circumstances, or otherwise.

(d) The beneficiary's interest in the vehicle at death of the owner or last surviving coowner is subject to any contract of sale, assignment, or security interest to which the owner or coowners were subject during their lifetimes.

(e) The surviving beneficiary or beneficiaries may secure a transfer of ownership for the vehicle upon presenting to the department

all of the following:

(1) The appropriate certificate of ownership and registration card, if available.

(2) A certificate under penalty of perjury stating the date and place of the decedent's death and that the declarant is entitled to the vehicle as the designated beneficiary.

(3) If required by the department, a certificate of the death of the decedent.

(f) A transfer at death pursuant to this section is effective by reason of this section, and shall not be deemed to be a testamentary disposition of property. The right of the designated beneficiary to the vehicle shall not be denied, abridged, or affected on the grounds that the right has not been created by a writing executed in accordance with the laws of this state prescribing the requirements to effect a valid testamentary disposition of property.

(g) If there is no surviving beneficiary or coowner, the person or persons described in Section 5910 may secure transfer of the vehicle as provided in that section.

(h) The department may prescribe forms for use pursuant to this section.

Comment. Section 5910.5 is new. Subdivisions (a) through (d) are drawn from Missouri law. See Mo. Ann. Stat. § 301.681 (Vernon Supp. 1989). Subdivision (e) is drawn from Health and Safety Code Section 18102(b) and Vehicle Code Sections 5910(b) and 9916(b). Subdivision (f) is drawn from Probate Code Section 5304. Subdivision (h) is drawn from Vehicle Code Section 5910(c). See also Health & Safety Code §§ 18080.2, 18102.2; Veh. Code §§ 4150.7, 9852.7, 9916.5.

Unlike Missouri law, Section 5910.5 permits designation of multiple beneficiaries, consistent with the POD designation permitted in favor of multiple beneficiaries under the California Multiple-Party Accounts Law. See Prob. Code § 5302.

Vehicle Code § 9852.7 (added). Ownership of vessel in beneficiary form

SEC. _____. Section 9852.7 is added to the Vehicle Code, to read:

9852.7. (a) Ownership of an undocumented vessel subject to registration may be held in beneficiary form that includes a direction to transfer ownership of the vehicle to one or more designated beneficiaries on death of the sole owner or last surviving coowner. A certificate of ownership issued in beneficiary form shall include,

after the name of the owner or names of the coowners, the words "transfer on death to" or the abbreviation "TOD" followed by the name of the beneficiary or beneficiaries.

(b) During the lifetime of a sole owner or of any coowner, the signature or consent of a beneficiary is not required for any transaction relating to the vehicle for which a certificate of ownership in beneficiary form has been issued.

Comment. Section 9852.7 is new and is drawn from Missouri law. See Mo. Ann. Stat. § 301.681 (Vernon Supp. 1989). See also Health & Safety Code §§ 18080.2, 18102.2; Veh. Code §§ 4150.7, 5910.5, 9916.5.

Unlike Missouri law, Section 9852.7 permits designation of multiple beneficiaries, consistent with the POD designation permitted in favor of multiple beneficiaries under the California Multiple-Party Accounts Law. See Prob. Code § 5302.

Vehicle Code § 9916.5 (added). Transfer of vessel owned in beneficiary form

SEC. _____. Section 9916.5 is added to the Vehicle Code, to read:

9916.5. (a) On death of a sole owner or the last surviving coowner of a vessel numbered under this division and owned in beneficiary form, the vessel belongs to the surviving beneficiary or beneficiaries, if any. If there is no surviving beneficiary, the vessel belongs to the estate of the deceased owner or of the last coowner to die.

(b) A certificate of ownership in beneficiary form may be revoked or the beneficiary changed at any time before the death of a sole owner or of the last surviving coowner by either of the following methods:

(1) By sale of the vessel with proper assignment and delivery of the certificate of ownership to another person.

(2) By application for a new certificate of ownership without designation of a beneficiary or with the designation of a different beneficiary or beneficiaries.

(c) Except as provided in subdivision (b), designation of a beneficiary in a certificate of ownership issued in beneficiary form may not be changed or revoked by will, by any other instrument, by a change of circumstances, or otherwise.

(d) The beneficiary's interest in the vessel at death of the owner or last surviving coowner is subject to any contract of sale,

assignment, or security interest to which the owner or coowners were subject during their lifetimes.

(e) The surviving beneficiary or beneficiaries may secure a transfer of ownership for the vessel upon presenting to the department all of the following:

(1) The appropriate certificate of ownership and certificate of number, if available.

(2) A certificate under penalty of perjury stating the date and place of the decedent's death and that the declarant is entitled to the vessel as the designated beneficiary.

(3) If required by the department, a certificate of the death of the decedent.

(f) A transfer at death pursuant to this section is effective by reason of this section, and shall not be deemed to be a testamentary disposition of property. The right of the designated beneficiary to the vessel shall not be denied, abridged, or affected on the grounds that the right has not been created by a writing executed in accordance with the laws of this state prescribing the requirements to effect a valid testamentary disposition of property.

(g) If there is no surviving beneficiary or coowner, the person or persons described in Section 9916 may secure transfer of the vessel as provided in that section.

(h) The department may prescribe forms for use pursuant to this section.

Comment. Section 9916.5 is new. Subdivisions (a) through (d) are drawn from Missouri law. See Mo. Ann. Stat. § 301.681 (Vernon Supp. 1989). Subdivision (e) is drawn from Health and Safety Code Section 18102(b) and Vehicle Code Sections 5910(b) and 9916(b). Subdivision (f) is drawn from Probate Code Section 5304. Subdivision (h) is drawn from Vehicle Code Section 5910(c). See also Health & Safety Code §§ 18080.2, 18102.2; Veh. Code §§ 4150.7, 5910.5, 9852.7, 9916.5.

OFFICE OF THE DIRECTOR

DEPARTMENT OF MOTOR VEHICLES

P. O. BOX 932328

SACRAMENTO, CA 94232-3280

CA LAW REV. COMM'N

JUN 27 1990

R E C E I V E D



June 20, 1990

Mr. Edwin K. Marzec, Chairperson
California Law Revision Commission
4000 Middlefield Road, Suite D-2
Palo Alto, CA 94303-4739

Dear Mr. Marzec:

This is in response to your letter of March 14, 1990 regarding legislation to permit transfer of vehicles and vessels upon the death of the owner, without the need for probate.

The proposed legislation will allow the registered owner to name a beneficiary or beneficiaries and require that the name(s) appear on the title and registration certificates. The opportunity to ensure passage of ownership of a vehicle to a specified individual upon the death of the registered owner may be welcomed by some.

California faces the same capacity problem that Missouri encountered. There is a minimum of space on the title for the names of the owners of record. Increasing the number of names recorded will require a revision of the title document and an increase in the size of the data base record. It may also require manual processing of titles, due to the limited space provided in the automated process. The registration card has no space for additional names. In any case, neither document has space for the names of multiple beneficiaries. Would the intent of the proposal be served if the name of the beneficiary were on file and the "TOD" notation were just printed on the Title?

There is no indication in the proposal that the beneficiary should be aware of their appointment. Since the proposal specifically states that the beneficiary would be required to assume the liability for any lien existing on the vehicle, perhaps there should be such a requirement.

If we are able to record a beneficiary name on the Title, issuance of a new Title will be required each time a beneficiary is added to or deleted from the vehicle record. If the Title is being held by a lienholder, an owner may be precluded from changing a beneficiary until the lien is satisfied. In this case the beneficiary on record can be changed without issuance of a new Title document. If "TOD", only, was printed, the beneficiary on record could be changed without issuance of a new document.

Implementing this change to the vehicle record will require a significant programming effort. It requires numerous program adjustments and creation of a new subrecord. The costs for the programming changes will be in the neighborhood of \$250,000. This does not include the increased storage costs created by the additional information carried on the vehicle record. If this proposal moves ahead, a request for an appropriation to cover the Department's implementation costs should be included.

There will also be ongoing costs for processing the transactions. It is assumed that a modest percentage of registered owners will take advantage of this process on original transactions. It is unknown, however, how many owners of the 25 million vehicles already on the data base will want to add a beneficiary to the record. New titles with the "TOD" notation will have to be issued for those vehicles.

Mr. Edwin K. Marzec

- 2 -

June 20, 1990

In order to recover operating and storage costs the Department will be required to charge a fee. If the addition is part of an original registration or transfer of ownership application, the fee may be as low as one dollar in addition to the regular fees. However, if the transaction is solely to add or remove the "TOD" beneficiary notation, in addition to the one dollar, a fee equal to the transfer fee may be necessary.

Since the intended benefits of this proposal appear minimal and the impact would be costly, the Department would have difficulty supporting the proposal in its present form.

If you have any questions, please feel free to contact me at (916) 732-0251 or Carole Waggoner at (916) 732-0623.

Sincerely

A handwritten signature in black ink, appearing to read "A. A. Pierce", with a long horizontal flourish extending to the right.

A. A. PIERCE
Director

STATE OF CALIFORNIA

GEORGE DEUKMEJIAN, Governor

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT**OFFICE OF THE DIRECTOR**

P. O. BOX 952051
SACRAMENTO, CA 94252-2051
(916) 445-4775
FAX (916) 323-2815



May 1, 1990

CA LAW REV. COMM'N

MAY 07 1990

R E C E I V E D

Edwin K. Marzec, Chairperson
California Law Revision Commission
4000 Middlefield Rd., Suite D-2
Palo Alto, CA 94303-4739

Dear Mr. Marzec:

Thank you for your recent letter proposing legislation to permit owners of manufactured homes, mobilehomes, commercial coaches, truck campers and floating homes to designate a beneficiary to receive title at death of the owner, or "TOD beneficiary designation".

This Department's general reaction to the proposal is that it would allow the typically older owners of manufactured homes and mobilehomes in California to clearly establish those persons who are to inherit title to their homes. The Department's Registration and Titling Program staff are continually confronted with questions from older persons regarding the best method for registering their units to protect not only their interest but the interest of their heirs. The TOD beneficiary designation appears to be an explicit method for accomplishing this intent.

However, like Missouri, this Department has a "capacity constraint". The current data processing system has a limit on the amount of data that can be entered in the owner name section. Most units are registered in the name of two or more owners requiring the assignment of a co-ownership term under Health and Safety Code Section 18080. The addition of the TOD abbreviation, along with multiple beneficiary names, would exceed the name section capacity. Our costs to expand the name section to accommodate multiple beneficiary names would be in the hundreds of thousands of dollars.

The Missouri concept of limiting the beneficiary to one party has been considered. However, in California where the number of divorces and remarriages are high, quite often each of the co-owners have individual heirs. These owners would not benefit from the proposed legislation with the limitation of one name.

Edwin K. Marzec

Page 2

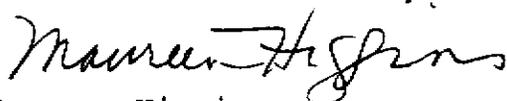
May 1, 1990

Operational factors which should be considered in the proposed legislation are:

1. The Registration and Titling Program indicates they are frequently contacted by owners regarding family disputes which affect ownership of a mobilehome. Because of these disputes, the Department anticipates that frequent TOD beneficiary designation changes would be requested, adversely impacting the Program's workload and staffing levels.
2. The Program's experience with changes in ownership occurring after an owner's death indicates the heirs typically sell the mobilehome to another party without first transferring ownership to their names. Language should be added to the proposed Health and Safety Code Section 18102.2 to provide specific requirements for release of interest signatures of all TOD beneficiaries when this type of direct sale is conducted.
3. The language in the proposed Health and Safety Code sections focuses on the certificate of title document as the basis for the ownership status of a mobilehome. Emphasis on the "registration" of a unit, such as, "registration in this manner", "registration in the name of" or "registration may be revoked" would place the basis for ownership on the information recorded by this Department and provide consistency with other Health and Safety Code provisions.
4. The costs and impact on the Registration and Titling Section would be significant and most certainly require the assessment of an additional fee. However, an actual fee amount cannot be estimated at this time.

Thank you for giving this Department the opportunity to review the proposal. If you have additional questions on this matter you may contact Virginia Schlottman, Registration and Titling Program Manager, at (916) 323-9252.

Sincerely,



Maureen Higgins
Director

STATE OF CALIFORNIA—BUSINESS, TRANSPORTATION AND HOUSING AGENCY

DEPARTMENT OF MOTOR VEHICLES

P. O. BOX 932345

SACRAMENTO, CA 94232-3450



July 18, 1990

Mr. Robert J. Murphy III, Staff Counsel
California Law Revision Commission
4000 Middlefield Road, Suite D-2
Palo Alto, CA 94303-4739

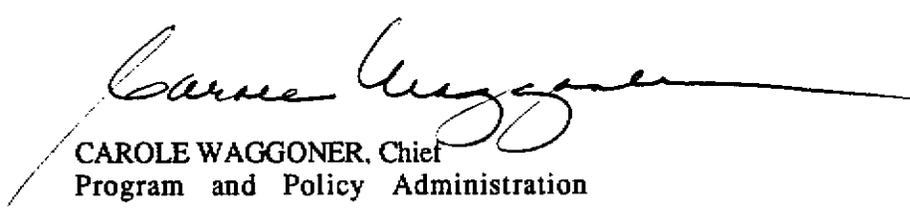
Dear Mr. Murphy:

Director Pierce has asked me to respond to your letter dated June 29, 1990, regarding legislation to permit transfer of vehicles and vessels upon the death of the owner through the designation of a TOD beneficiary. Specifically, your letter asked if the cost for programming changes would be affected if only one beneficiary is designated.

The number of TOD beneficiaries designated would not alter the \$250,000 estimated costs for programming changes. Having only one versus multiple TOD beneficiaries would, however, affect the storage costs for maintaining the additional information on the vehicle record. As indicated in our previous letter, the increased storage costs were not included in the estimate. Again, if this proposal moves ahead, a request for an appropriation to cover the Department's implementation costs should be included.

If you have any questions, please contact Rosemarie Dunbarr, Registration Policy Development Unit, at (916) 732-7806.

Sincerely,



CAROLE WAGGONER, Chief
Program and Policy Administration

cc: A. A. Pierce

STATE OF CALIFORNIA

GEORGE DEUKMEJIAN, Governor

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

OFFICE OF THE DIRECTOR

P. O. BOX 952051
SACRAMENTO, CA 94252-2051
(916) 445-4775
FAX (916) 323-2815

CA LAW REV. COMM'N

JUL 31 1990

R E C E I V E D

July 27, 1990

Robert J. Murphy III, Staff Counsel
California Law Revision Commission
4000 Middlefield Rd., Suite D-2
Palo Alto, CA 94303-4739

Dear Mr. Murphy:

Thank you for your recent letter requesting a cost impact to this department if your proposed legislation permitted the designation of only one beneficiary to receive title at death (TOD) of an owner of a manufactured home, mobilehome, commercial coach, truck camper or floating home.

Limiting the TOD beneficiary to one person would avoid the substantial cost to the department to expand the owner name section. However, an estimated cost of \$60,000 to \$80,000 would be incurred for changes to the data processing system to recognize the TOD abbreviation, to differentiate the beneficiary's name from the owner's name(s) and to provide a record under the beneficiary's name which cross references to the manufactured home, mobilehome, etc. record.

I hope this provides the information you need. If you have any further questions on this matter you may contact Virginia Schlottman, Registration and Titling Program Manager, at (916) 323-9252.

Sincerely,

A handwritten signature in cursive script that reads "Maureen Higgins".

Maureen Higgins
Director