

SUBJECT: Evidence required by TPWD to transfer ownership of a vessel to heir

COMMITTEE: Culture, Recreation, and Tourism —favorable, without amendment

VOTE: 5 ayes — Hilderbran, Kuempel, Baxter, Dukes, Dunnam

0 nays

2 absent — Gallego, Phillips

WITNESSES: None

BACKGROUND: An owner of a vessel or outboard motor must obtain a certificate of title issued by the Parks and Wildlife Department (TPWD). A vessel is any watercraft, other than a seaplane on water, used or capable of being used for transportation on water, such as a boat or yacht.

When an owner of a boat or outboard motor dies, sec. 31.047 of the Parks and Wildlife Code provides that an heir to the property must file an application, along with other evidence reasonably required by TPWD, to establish that ownership has been transferred to the applicant and that the applicant is entitled to a certificate of title. This evidence can include an affidavit, a probate or heirship proceeding or information, a judgment of a court of competent jurisdiction, or other documents.

In some cases, the estate of a boat or outboard motor owner does not have to be administered by a probate court. Administration is not necessary if the estate is valued under \$50,000, if the estate qualifies for an order of no administration, or if the estate can be closed through affidavits of heirship, or community administration.

DIGEST: HB 943 would amend the Parks and Wildlife Code to allow someone inheriting a boat or outboard motor, if administration of the estate were not required by law, to submit alternative evidence to show that ownership had been transferred and that the heir was entitled to a certificate of title. An heir would have to submit an affidavit that include d:

- a showing that the administration was not required;
- identification of all heirs; and
- a statement by the heirs of the name in which to issue the certificate.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2005.

**SUPPORTERS
SAY:**

The families of deceased individuals have to deal with several legal and other matters. Transferring ownership of property such as boats and outboard motors should be made as simple and convenient as possible. The process by which the transfer is now made is burdensome and difficult to manage. Family members have to go to their county clerks offices and obtain affidavits of heirship, then bring those affidavits back to TPWD to complete their applications for transfer of ownership.

Currently, the Department of Transportation can maintain its own form for an affidavit of heirship to be completed within the agency. TPWD should have the same capacity in order to make transfer more efficient. HB 943 would allow TPWD to administer their own affidavits of heirship, resulting in an improved process for documenting and transferring ownership of boats and outboard motors under these circumstances.

**OPPONENTS
SAY:**

Allowing TPWD to administer their own affidavits of heirship could open the door for fraud and abuse. People who might have been hesitant to go to a county clerk's office to obtain an affidavit could be more willing to sign a TPWD affidavit if they believed the information they provided would be less likely to be scrutinized.

NOTES:

The companion bill, SB 538 by Deuell, has been referred to the Senate Natural Resources Committee.