

HOUSE BILL 273

56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023

INTRODUCED BY

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This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

AN ACT

RELATING TO PROPERTY; ENACTING THE UNIFORM COHABITANTS' ECONOMIC REMEDIES ACT; PROVIDING A RIGHT OF ACTION TO COHABITANTS FOR CONTRACTUAL AND EQUITABLE CLAIMS ARISING OUT OF CONTRIBUTIONS TO THE RELATIONSHIP OF THE COHABITANTS; ESTABLISHING REQUIREMENTS OF A COHABITANTS' AGREEMENT; PROVIDING A RIGHT TO THIRD PARTIES TO ENFORCE JUDGMENTS AGAINST COHABITANTS; PROVIDING REMEDIES.

.222950.2AIC March 5, 2023 (12:20pm)

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BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. [NEW MATERIAL] SHORT TITLE.--This act may be cited as the "Uniform Cohabitants' Economic Remedies Act".

SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the Uniform Cohabitants' Economic Remedies Act:

A. "cohabitant" means each of two people not married to each other who live together as a couple after each has reached the age of majority or been emancipated, but does not include two persons who cannot lawfully marry because both persons are relatives within a prohibited degree pursuant to state law;

B. "cohabitants' agreement" means an agreement between two people concerning contributions to the relationship if these people are to become, are or were cohabitants and includes a waiver of rights under the Uniform Cohabitants' Economic Remedies Act;

C. "contributions to the relationship" means the contributions of a cohabitant that benefit the other cohabitant, both cohabitants or the cohabitants' relationship in the form of efforts, activities, services or property and:

(1) includes cooking, cleaning, shopping, household maintenance, conducting errands and other domestic services for the benefit of the other cohabitant or the cohabitants' relationship;

(2) includes otherwise caring for the other cohabitant, a child in common or another family member of the

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other cohabitant; and

(3) does not include sexual relations;

D. "property" means anything that may be the subject of ownership, whether real or personal, tangible or intangible, legal or equitable or any interest therein, including responsibility for a debt;

E. "record" means information:

(1) inscribed on a tangible medium; or

(2) stored in an electronic or other medium and retrievable in perceivable form;

F. "state" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands or any other territory or possession subject to the jurisdiction of the United States; and

G. "termination of cohabitation" means the earliest of:

(1) the death of a cohabitant;

(2) the date the cohabitants stop living together as a couple; or

(3) the date of the cohabitants' marriage to each other.

SECTION 3. [NEW MATERIAL] SCOPE.--The Uniform Cohabitants' Economic Remedies Act applies only to a contractual claim or an equitable claim between cohabitants concerning an interest, promise or obligation arising from

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contributions to the relationship. HJC→The Uniform Cohabitants'
Economic Remedies Act does not create an equitable lien.←HJC

The rights and remedies of cohabitants under the Uniform Cohabitants' Economic Remedies Act are not exclusive.

SECTION 4. [NEW MATERIAL] RIGHT OF COHABITANT TO BRING ACTION.--

A. A person who is or was a cohabitant may commence an action on a contractual claim or an equitable claim that arises out of contributions to the relationship. The action is not:

(1) barred because of a sexual relationship between the cohabitants;

(2) subject to additional substantive or procedural requirements because the parties to the action are or were cohabitants or because of a sexual relationship between the cohabitants; or

(3) extinguished by the marriage of the cohabitants to each other.

B. The action may be commenced on behalf of a deceased cohabitant's estate.

C. The action may be commenced against a deceased cohabitant's estate and adjudicated pursuant to a law of this state applicable to a claim against a decedent's estate.

SECTION 5. [NEW MATERIAL] GOVERNING LAW.--

A. Except as otherwise provided in the Uniform

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Cohabitants' Economic Remedies Act, a claim under the Uniform Cohabitants' Economic Remedies Act is governed by other laws of this state, including this state's choice-of-law rules.

B. The validity, enforceability, interpretation and construction of a cohabitants' agreement are determined by:

- (1) the state law designated in the agreement if the designation is valid under other state law; or
- (2) in the absence of a designation effective under Paragraph (1) of this subsection, the law of this state, including this state's choice-of-law rules.

SECTION 6. [NEW MATERIAL] COHABITANTS' AGREEMENT.--

- A. A cohabitants' agreement may be oral, in a record, express or implied-in-fact.
- B. Contributions to the relationship are sufficient consideration for a cohabitants' agreement.
- C. A claim for breach of a cohabitants' agreement accrues on breach and may be commenced, pursuant to Chapter 37, Article 1 NMSA 1978, during cohabitation or after termination of cohabitation.
- D. A term in a cohabitants' agreement that adversely affects a child's right to support is unenforceable.
- E. A term in a cohabitants' agreement that requires or limits the ability of a cohabitant to pursue a civil, criminal or administrative remedy is voidable to the extent the remedy is available because the cohabitant is a victim of

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domestic abuse as defined pursuant to the Family Violence Protection Act.

SECTION 7. [NEW MATERIAL] EQUITABLE RELIEF.--

A. Unless maintaining the action is inconsistent with a valid cohabitants' agreement, a cohabitant may commence an equitable action against the other cohabitant concerning entitlement to property based on contributions to the relationship. The action is in addition to any remedy otherwise available to the cohabitant pursuant to the Uniform Cohabitants' Economic Remedies Act or other state law or federal law.

B. A cohabitant may commence an action provided pursuant to the Uniform Cohabitants' Economic Remedies Act in the family court division of any state district court.

C. An equitable claim based on contributions to the relationship accrues on termination of cohabitation and is subject to equitable defenses.

D. In addition to other laws governing an equitable claim, the court adjudicating a claim under this section shall consider:

- (1) the nature and value of contributions to the relationship by each cohabitant, including the value to each cohabitant and the market value of the contributions;
- (2) the duration and continuity of the cohabitation;

(3) the extent to which a cohabitant reasonably relied on representations or conduct of the other cohabitant;

(4) the extent to which a cohabitant demonstrated an intent to share or not to share property with the other cohabitant; and

(5) other relevant factors.

SECTION 8. [NEW MATERIAL] EFFECT OF COURT ORDER OR JUDGMENT ON THIRD PARTY.--

A. A court order or judgment granting relief under the Uniform Cohabitants' Economic Remedies Act against a cohabitant or a cohabitant's estate is an order or judgment in favor of a general creditor.

B. A court order or judgment granting relief under the Uniform Cohabitants' Economic Remedies Act shall not impair the rights of a good-faith purchaser from or secured creditor of a cohabitant.

SECTION 9. [NEW MATERIAL] PRINCIPLES OF LAW AND EQUITY.--
The principles of law and equity supplement the Uniform Cohabitants' Economic Remedies Act except to the extent inconsistent with the Uniform Cohabitants' Economic Remedies Act.

SECTION 10. [NEW MATERIAL] UNIFORMITY OF APPLICATION AND CONSTRUCTION.--In applying and construing the Uniform Cohabitants' Economic Remedies Act, a court shall consider the

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promotion of uniformity of the law among jurisdictions that enact it.

SECTION 11. [NEW MATERIAL] RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.--The Uniform Cohabitants' Economic Remedies Act modifies, limits or supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001 et seq., as amended, but does not modify, limit or supersede 15 U.S.C. Section 7001(c) or authorize electronic delivery of any of the notices described in 15 U.S.C. Section 7003(b).

SECTION 12. [NEW MATERIAL] TRANSITIONAL PROVISIONS.--

A. The Uniform Cohabitants' Economic Remedies Act applies to a cohabitants' agreement made on or after the effective date of the Uniform Cohabitants' Economic Remedies Act.

B. The Uniform Cohabitants' Economic Remedies Act applies to an equitable claim pursuant to the Uniform Cohabitants' Economic Remedies Act that accrues on or after the effective date of the Uniform Cohabitants' Economic Remedies Act.

SECTION 13. [NEW MATERIAL] SEVERABILITY.--If a provision of the Uniform Cohabitants' Economic Remedies Act or its application to a person or circumstance is held invalid, the invalidity does not affect another provision or application that can be given effect without the invalid provision.

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SECTION 14. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2023.

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