

1 SENATE BILL 206

2 **52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015**

3 INTRODUCED BY

4 John M. Sapien

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10 AN ACT

11 RELATING TO COMMUNITY PROPERTY; CLARIFYING THAT SPOUSES OWE
12 EACH OTHER A FIDUCIARY DUTY.

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

15 SECTION 1. Section 40-3-14 NMSA 1978 (being Laws 1973,
16 Chapter 320, Section 10, as amended) is amended to read:

17 "40-3-14. MANAGEMENT AND CONTROL OF OTHER COMMUNITY
18 PERSONAL PROPERTY.--

19 A. Except as provided in Subsections B, [~~and~~] C and
20 D of this section, either spouse alone has full power to
21 manage, control, dispose of and encumber the entire community
22 personal property.

23 B. Each spouse owes the other spouse a fiduciary
24 duty when managing community personal property or incurring
25 debt. Debts incurred in violation of the fiduciary duty may be

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underscored material = new
[bracketed material] = delete

1 determined to be the sole responsibility of the spouse
2 incurring the debt. One spouse's share in community property
3 is not subject to liability for any debt incurred by the other
4 spouse in violation of the fiduciary duty.

5 [B-] C. Where only one spouse is:

6 (1) named in a document evidencing ownership
7 of community personal property; or

8 (2) named or designated in a written agreement
9 between that spouse and a third party as having sole authority
10 to manage, control, dispose of or encumber the community
11 personal property [~~which~~] that is described in or [~~which~~] that
12 is the subject of the agreement, whether the agreement was
13 executed prior to or after July 1, 1973; only the spouse so
14 named may manage, control, dispose of or encumber the community
15 personal property described in such a document evidencing
16 ownership or in such a written agreement.

17 [G-] D. Where both spouses are:

18 (1) named in a document evidencing ownership
19 of community personal property; or

20 (2) named or designated in a written agreement
21 with a third party as having joint authority to dispose of or
22 encumber the community personal property [~~which~~] that is
23 described in or that is the subject of the agreement, whether
24 the agreement was executed prior to or after July 1, 1973; both
25 spouses must join to dispose of or encumber [~~such~~] community

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underscoring material = new
~~[bracketed material] = delete~~

1 personal property where the names of the spouses are joined by
2 the word "and". Where the names of the spouses are joined by
3 the word "or", or by the words "and/or", either spouse alone
4 may dispose of or encumber [~~such~~] the community personal
5 property."

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