

HOUSE BILL 273

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

INTRODUCED BY

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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.

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

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1 has reached the age of majority or been emancipated, but does  
2 not include two persons who cannot lawfully marry because both  
3 persons are relatives within a prohibited degree pursuant to  
4 state law;

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

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

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

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

21 (3) does not include sexual relations;

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

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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 contributions to the relationship. 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

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1 an action on a contractual claim or an equitable claim that  
2 arises out of contributions to the relationship. The action is  
3 not:

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

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

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

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

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

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

18 A. Except as otherwise provided in the Uniform  
19 Cohabitants' Economic Remedies Act, a claim under the Uniform  
20 Cohabitants' Economic Remedies Act is governed by other laws of  
21 this state, including this state's choice-of-law rules.

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

24 (1) the state law designated in the agreement  
25 if the designation is valid under other state law; or

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1 (2) in the absence of a designation effective  
2 under Paragraph (1) of this subsection, the law of this state,  
3 including this state's choice-of-law rules.

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

5 A. A cohabitants' agreement may be oral, in a  
6 record, express or implied-in-fact.

7 B. Contributions to the relationship are sufficient  
8 consideration for a cohabitants' agreement.

9 C. A claim for breach of a cohabitants' agreement  
10 accrues on breach and may be commenced, pursuant to Chapter 37,  
11 Article 1 NMSA 1978, during cohabitation or after termination  
12 of cohabitation.

13 D. A term in a cohabitants' agreement that  
14 adversely affects a child's right to support is unenforceable.

15 E. A term in a cohabitants' agreement that requires  
16 or limits the ability of a cohabitant to pursue a civil,  
17 criminal or administrative remedy is voidable to the extent the  
18 remedy is available because the cohabitant is a victim of  
19 domestic abuse as defined pursuant to the Family Violence  
20 Protection Act.

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

22 A. Unless maintaining the action is inconsistent  
23 with a valid cohabitants' agreement, a cohabitant may commence  
24 an equitable action against the other cohabitant concerning  
25 entitlement to property based on contributions to the

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1 relationship. The action is in addition to any remedy  
2 otherwise available to the cohabitant pursuant to the Uniform  
3 Cohabitants' Economic Remedies Act or other state law or  
4 federal law.

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

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

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

14 (1) the nature and value of contributions to  
15 the relationship by each cohabitant, including the value to  
16 each cohabitant and the market value of the contributions;

17 (2) the duration and continuity of the  
18 cohabitation;

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

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

25 (5) other relevant factors.

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

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

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

11           SECTION 9.   [NEW MATERIAL] PRINCIPLES OF LAW AND EQUITY.--

12 The principles of law and equity supplement the Uniform  
13 Cohabitants' Economic Remedies Act except to the extent  
14 inconsistent with the Uniform Cohabitants' Economic Remedies  
15 Act.

16           SECTION 10.   [NEW MATERIAL] UNIFORMITY OF APPLICATION AND

17 CONSTRUCTION.--In applying and construing the Uniform  
18 Cohabitants' Economic Remedies Act, a court shall consider the  
19 promotion of uniformity of the law among jurisdictions that  
20 enact it.

21           SECTION 11.   [NEW MATERIAL] RELATION TO ELECTRONIC

22 SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.--The Uniform  
23 Cohabitants' Economic Remedies Act modifies, limits or  
24 supersedes the federal Electronic Signatures in Global and  
25 National Commerce Act, 15 U.S.C. Section 7001 et seq., as

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1 amended, but does not modify, limit or supersede 15 U.S.C.  
2 Section 7001(c) or authorize electronic delivery of any of the  
3 notices described in 15 U.S.C. Section 7003(b).

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

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

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

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

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