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## FISCAL IMPACT REPORT

<b>SPONSOR</b>	<u>Little</u>	<b>LAST UPDATED</b>	<u>2/5/25</u>
	Uniform Cohabitants' Economic Remedies	<b>ORIGINAL DATE</b>	<u>2/5/25</u>
<b>SHORT TITLE</b>	<u>Act</u>	<b>BILL NUMBER</b>	<u>House Bill 123</u>
		<b>ANALYST</b>	<u>Gygi</u>

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT\* (dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Courts	Indeterminate but minimal	Indeterminate but minimal	Indeterminate but minimal	Indeterminate but minimal	Recurring	General Fund
NMAG	Indeterminate but minimal	Indeterminate but minimal	Indeterminate but minimal	Indeterminate but minimal	Recurring	General Fund

Parentheses ( ) indicate expenditure decreases.  
\*Amounts reflect most recent analysis of this legislation.

### Sources of Information

LFC Files

Agency Analysis Received From  
 Administrative Office of the Court (AOC)  
 New Mexico Attorney General (NMAG)  
 Mortgage Finance Authority (MFA)

Agency Analysis was Solicited but Not Received From  
 Governor's Office on Housing

## SUMMARY

### Synopsis of House Bill 123

House Bill 123 (HB123) proposes the enactment of the Uniform Cohabitants' Economic Remedies Act, which:

- Provides a right of action to cohabitants for contractual and equitable claims arising out of the contributions to the relationships of cohabitants,
- Establishes requirements of a cohabitants' agreement,
- Allows third parties to enforce judgments against cohabitants and provide associated remedies.

The effective date of this bill is July 1, 2025.

## FISCAL IMPLICATIONS

The Administrative Office of the Court (AOC) anticipates increased but unquantified costs associated with training judges on the statutory changes in the act and the statewide update, distribution, and documentation of the changes. AOC anticipates a shift in cases from civil court to family court, which would require additional resources in the latter.

The New Mexico Attorney General (NMAG) notes that HB123 establishes a forum much like a divorce court “for couples to dispute each of their perceptions regarding the value of what they brought to the relationship to determine whether each is owed something from the other.” NMAG suggests the result could be a substantial increase in litigation.

There is no fiscal impact to the Mortgage Finance Authority (NMMFA).

## SIGNIFICANT ISSUES

The Uniform Law Commission drafted the Uniform Cohabitants' Economic Remedies Act in 2021<sup>1</sup> to address variations in laws across states and respond to the dramatic increase in the number of nonmarital cohabitants in the United States over the past half-century. New Mexico is the first and only state to attempt to introduce the uniform act. As NMAG explains:

This bill creates a means for cohabitants (“two people not married to each other who live together as a couple”) to commence a legal action in family court against the other cohabitant. Cohabitation terminates when one dies, when they stop living together, or when they marry, whichever comes first.

Both AOC and NMAG raise issues regarding definitions, scope, and timeframe, and statute of limitations, sometimes with different interpretations.

For example, AOC notes that “couple” is not defined in the act and could include roommates. However, the agency’s analysis suggests that a flexible definition of “couple” may be beneficial to ensure that the nature of the parties’ relationship is not a bar to their bringing claims against each other. This interpretation follows the Uniform Law Commission’s approach which acknowledges that otherwise cohabitants might have to pay for costly litigation to determine the nature of their relationship. However, NMAG states that claims brought by roommates would substantially increase litigation and increase resources needed in the courts.

Remedies already are available in civil law for breach of contract, implied contract, and equitable relief for cohabitants. Presumably, family court is more familiar with the experiences and situations of cohabitation, whereas civil courts deal primarily with cases involving strangers. AOC notes this legislation would create a de facto marriage, which may circumvent New Mexico’s prohibition of common-law marriage and, thus, further increase litigation in family court.

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<sup>1</sup> <https://www.uniformlaws.org/committees/community-home?CommunityKey=c5b72926-53d2-49f4-907c-a1cba9cc56f5>

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

HB123 is virtually identical to the original House Bill 273 introduced in the 2023 legislative session, but not passed. The House Judiciary Committee amended the latter bill to clarify that an equitable lien will not result from the contractual or equitable claim between cohabitants covered by the bill.

## **TECHNICAL ISSUES**

NMAG concludes that defining “couples” is likely necessary and suggests revisiting whether Section 11 of the proposed act could modify, limit, or supersede the federal law regarding electronic signatures and electronic delivery of notices.

AOC suggests clarifying whether or not the end of the marriage is the triggering date for the statute of limitations for bringing claims under the act.

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