

By: Cook

H.B. No. 1547

A BILL TO BE ENTITLED

AN ACT

relating to claims for reimbursement between marital estates.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 3.401, Family Code, is amended by adding Subdivisions (1) and (2) to read as follows:

(1) "Benefited estate" means a marital estate that receives a benefit from another marital estate.

(2) "Conferring estate" means a marital estate that confers a benefit on another marital estate.

SECTION 2. Section 3.402, Family Code, is amended to read as follows:

Sec. 3.402. CLAIM FOR REIMBURSEMENT; OFFSETS. (a) A claim for reimbursement exists when one or both spouses use property of one marital estate to confer on the property of another marital estate a benefit which, if not repaid, would result in unjust enrichment to the benefited estate [~~For purposes of this subchapter, a claim for reimbursement includes:~~

~~(1) payment by one marital estate of the unsecured liabilities of another marital estate,~~

~~(2) inadequate compensation for the time, toil, talent, and effort of a spouse by a business entity under the control and direction of that spouse,~~

~~(3) the reduction of the principal amount of a debt secured by a lien on property owned before marriage, to the extent~~

1 ~~the debt existed at the time of marriage;~~

2 ~~[(4) the reduction of the principal amount of a debt~~
3 ~~secured by a lien on property received by a spouse by gift, devise,~~
4 ~~or descent during a marriage, to the extent the debt existed at the~~
5 ~~time the property was received;~~

6 ~~[(5) the reduction of the principal amount of that~~
7 ~~part of a debt, including a home equity loan:~~

8 ~~[(A) incurred during a marriage;~~

9 ~~[(B) secured by a lien on property; and~~

10 ~~[(C) incurred for the acquisition of, or for~~
11 ~~capital improvements to, property;~~

12 ~~[(6) the reduction of the principal amount of that~~
13 ~~part of a debt:~~

14 ~~[(A) incurred during a marriage;~~

15 ~~[(B) secured by a lien on property owned by a~~
16 ~~spouse;~~

17 ~~[(C) for which the creditor agreed to look for~~
18 ~~repayment solely to the separate marital estate of the spouse on~~
19 ~~whose property the lien attached; and~~

20 ~~[(D) incurred for the acquisition of, or for~~
21 ~~capital improvements to, property;~~

22 ~~[(7) the refinancing of the principal amount described~~
23 ~~by Subdivisions (3)-(6), to the extent the refinancing reduces that~~
24 ~~principal amount in a manner described by the applicable~~
25 ~~subdivision;~~

26 ~~[(8) capital improvements to property other than by~~
27 ~~incurring debt; and~~

1 ~~[(9) the reduction by the community property estate of~~
2 ~~an unsecured debt incurred by the separate estate of one of the~~
3 ~~spouses].~~

4 (b) A spouse seeking reimbursement to a marital estate must
5 prove:

6 (1) that the spouse or both spouses used property of
7 the marital estate to confer a benefit on the property of another
8 marital estate;

9 (2) the value of the benefit described by Subdivision
10 (1); and

11 (3) that unjust enrichment of the benefited estate
12 will occur if the benefited estate is not required to reimburse the
13 conferring estate.

14 (c) For purposes of this subchapter, the property of a
15 marital estate confers a benefit on another marital estate's
16 property if:

17 (1) one or both spouses used property of the
18 conferring estate to pay a debt, liability, or expense that in
19 equity and good conscience should have been paid from the benefited
20 estate's property;

21 (2) one or both spouses used property of the
22 conferring estate to make improvements on the benefited estate's
23 real property, and the improvements resulted in an enhancement in
24 the value of the benefited estate's real property; or

25 (3) one or both spouses used time, toil, talent, or
26 effort to enhance the value of property of a spouse's separate
27 estate beyond that which was reasonably necessary to manage and

1 preserve the spouse's separate property, and for which the
2 community marital estate did not receive adequate compensation.

3 (d) For purposes of this subchapter, the value of the
4 benefit conferred by the property of one marital estate on the
5 property of another marital estate is determined as of the date of
6 the trial's commencement and:

7 (1) if the benefit resulted from the use of the
8 conferring estate's property to pay a debt, liability, or expense
9 that in equity and good conscience should have been paid from the
10 benefited estate's property, then the value of the benefit
11 conferred is measured by the amount of the debt, liability, or
12 expense paid by the conferring estate;

13 (2) if the benefit resulted from the use of the
14 conferring estate's property to make improvements on the benefited
15 estate's real property, then the value of the benefit conferred is
16 measured by the enhancement in the value of the benefited estate's
17 real property that resulted from the improvements; or

18 (3) if the benefit resulted from the use of time, toil,
19 talent, or effort to enhance the value of property of a spouse's
20 separate estate, then the value of the benefit conferred is
21 measured by the value of the time, toil, talent, or effort beyond
22 that which was reasonably necessary to manage and preserve the
23 spouse's separate property.

24 (e) The determination of whether unjust enrichment will
25 occur if one marital estate is not required to reimburse another
26 marital estate is a question for the court to decide.

27 (f) The court shall resolve a claim for reimbursement by

1 using equitable principles, including the principle that claims for
2 reimbursement may be offset against each other if the court
3 determines it to be appropriate.

4 (g) A claim for reimbursement of a marital estate by one
5 spouse may be offset by the value of any related benefit that the
6 other spouse proves that the conferring estate received from the
7 benefited estate, including:

8 (1) the value of the use and enjoyment of the property
9 by the conferring estate, except that the separate marital estate
10 of a spouse may not claim an offset for use and enjoyment of a
11 primary or secondary residence owned wholly or partly by the
12 separate marital estate against contributions made by the community
13 marital estate to the separate marital estate;

14 (2) income received by the conferring estate from the
15 property of the benefited estate; or

16 (3) any reduction in the amount of any income tax
17 obligation of the conferring estate by virtue of the conferring
18 estate claiming tax-deductible items relating to the property of
19 the benefited estate, such as depreciation, interest, taxes,
20 maintenance, or other deductible payments.

21 ~~(h) [(c) Benefits for the use and enjoyment of property may~~
22 ~~be offset against a claim for reimbursement for expenditures to~~
23 ~~benefit a marital estate, except that the separate estate of a~~
24 ~~spouse may not claim an offset for use and enjoyment of a primary or~~
25 ~~secondary residence owned wholly or partly by the separate estate~~
26 ~~against contributions made by the community estate to the separate~~
27 ~~estate.~~

1 ~~[(d) Reimbursement for funds expended by a marital estate~~
2 ~~for improvements to another marital estate shall be measured by the~~
3 ~~enhancement in value to the benefited marital estate.~~

4 ~~[(e)]~~ The party seeking an offset to a claim for
5 reimbursement has the burden of proof with respect to the offset.

6 SECTION 3. Section 3.404(b), Family Code, is amended to
7 read as follows:

8 (b) A claim for reimbursement under this subchapter does not
9 create an ownership interest in property, but does create a claim
10 against the property of the benefited estate by the conferring
11 ~~[contributing]~~ estate. The claim matures on dissolution of the
12 marriage or the death of either spouse.

13 SECTION 4. Section 3.406, Family Code, is amended to read as
14 follows:

15 Sec. 3.406. EQUITABLE LIEN. (a) On dissolution of a
16 marriage, the court may impose an equitable lien on the property of
17 a benefited ~~[marital]~~ estate to secure a claim for reimbursement
18 against that property by a conferring ~~[contributing marital]~~
19 estate.

20 (b) On the death of a spouse, a court may, on application for
21 a claim for reimbursement brought by the surviving spouse, the
22 personal representative of the estate of the deceased spouse, or
23 any other person interested in the estate, as defined by Chapter 22,
24 Estates Code, impose an equitable lien on the property of a
25 benefited ~~[marital]~~ estate to secure a claim for reimbursement
26 against that property by a conferring ~~[contributing marital]~~
27 estate.

1 SECTION 5. Subchapter E, Chapter 3, Family Code, is amended
2 by adding Section 3.411 to read as follows:

3 Sec. 3.411. CUMULATIVE REMEDIES. The remedies provided by
4 this subchapter are not exclusive and are in addition to any other
5 remedy provided by law.

6 SECTION 6. The change in law made by this Act applies to a
7 claim for reimbursement that is pending in a trial court on the
8 effective date of this Act or that is filed on or after that date.

9 SECTION 7. This Act takes effect September 1, 2023.