

1-1 By: Cook (Senate Sponsor - Hughes) H.B. No. 1547
1-2 (In the Senate - Received from the House May 1, 2023;
1-3 May 2, 2023, read first time and referred to Committee on
1-4 Jurisprudence; May 10, 2023, reported favorably by the following
1-5 vote: Yeas 5, Nays 0; May 10, 2023, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			

1-13 A BILL TO BE ENTITLED
1-14 AN ACT

1-15 relating to claims for reimbursement between marital estates.
1-16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
1-17 SECTION 1. Section 3.401, Family Code, is amended by adding
1-18 Subdivisions (1) and (2) to read as follows:
1-19 (1) "Benefited estate" means a marital estate that
1-20 receives a benefit from another marital estate.
1-21 (2) "Conferring estate" means a marital estate that
1-22 confers a benefit on another marital estate.
1-23 SECTION 2. Section 3.402, Family Code, is amended to read as
1-24 follows:
1-25 Sec. 3.402. CLAIM FOR REIMBURSEMENT; OFFSETS. (a) A claim
1-26 for reimbursement exists when one or both spouses use property of
1-27 one marital estate to confer on the property of another marital
1-28 estate a benefit which, if not repaid, would result in unjust
1-29 enrichment to the benefited estate ~~[For purposes of this~~
1-30 ~~subchapter, a claim for reimbursement includes:~~
1-31 ~~[(1) payment by one marital estate of the unsecured~~
1-32 ~~liabilities of another marital estate;~~
1-33 ~~[(2) inadequate compensation for the time, toil,~~
1-34 ~~talent, and effort of a spouse by a business entity under the~~
1-35 ~~control and direction of that spouse;~~
1-36 ~~[(3) the reduction of the principal amount of a debt~~
1-37 ~~secured by a lien on property owned before marriage, to the extent~~
1-38 ~~the debt existed at the time of marriage;~~
1-39 ~~[(4) the reduction of the principal amount of a debt~~
1-40 ~~secured by a lien on property received by a spouse by gift, devise,~~
1-41 ~~or descent during a marriage, to the extent the debt existed at the~~
1-42 ~~time the property was received;~~
1-43 ~~[(5) the reduction of the principal amount of that~~
1-44 ~~part of a debt, including a home equity loan:~~
1-45 ~~[(A) incurred during a marriage;~~
1-46 ~~[(B) secured by a lien on property; and~~
1-47 ~~[(C) incurred for the acquisition of, or for~~
1-48 ~~capital improvements to, property;~~
1-49 ~~[(6) the reduction of the principal amount of that~~
1-50 ~~part of a debt:~~
1-51 ~~[(A) incurred during a marriage;~~
1-52 ~~[(B) secured by a lien on property owned by a~~
1-53 ~~spouse;~~
1-54 ~~[(C) for which the creditor agreed to look for~~
1-55 ~~repayment solely to the separate marital estate of the spouse on~~
1-56 ~~whose property the lien attached; and~~
1-57 ~~[(D) incurred for the acquisition of, or for~~
1-58 ~~capital improvements to, property;~~
1-59 ~~[(7) the refinancing of the principal amount described~~
1-60 ~~by Subdivisions (3)-(6), to the extent the refinancing reduces that~~
1-61 ~~principal amount in a manner described by the applicable~~

2-1 ~~subdivision,~~
2-2 ~~[(8) capital improvements to property other than by~~
2-3 ~~incurring debt; and~~
2-4 ~~[(9) the reduction by the community property estate of~~
2-5 ~~an unsecured debt incurred by the separate estate of one of the~~
2-6 ~~spouses].~~
2-7 (b) A spouse seeking reimbursement to a marital estate must
2-8 prove:
2-9 (1) that the spouse or both spouses used property of
2-10 the marital estate to confer a benefit on the property of another
2-11 marital estate;
2-12 (2) the value of the benefit described by Subdivision
2-13 (1); and
2-14 (3) that unjust enrichment of the benefited estate
2-15 will occur if the benefited estate is not required to reimburse the
2-16 conferring estate.
2-17 (c) For purposes of this subchapter, the property of a
2-18 marital estate confers a benefit on another marital estate's
2-19 property if:
2-20 (1) one or both spouses used property of the
2-21 conferring estate to pay a debt, liability, or expense that in
2-22 equity and good conscience should have been paid from the benefited
2-23 estate's property;
2-24 (2) one or both spouses used property of the
2-25 conferring estate to make improvements on the benefited estate's
2-26 real property, and the improvements resulted in an enhancement in
2-27 the value of the benefited estate's real property; or
2-28 (3) one or both spouses used time, toil, talent, or
2-29 effort to enhance the value of property of a spouse's separate
2-30 estate beyond that which was reasonably necessary to manage and
2-31 preserve the spouse's separate property, and for which the
2-32 community marital estate did not receive adequate compensation.
2-33 (d) For purposes of this subchapter, the value of the
2-34 benefit conferred by the property of one marital estate on the
2-35 property of another marital estate is determined as of the date of
2-36 the trial's commencement and:
2-37 (1) if the benefit resulted from the use of the
2-38 conferring estate's property to pay a debt, liability, or expense
2-39 that in equity and good conscience should have been paid from the
2-40 benefited estate's property, then the value of the benefit
2-41 conferred is measured by the amount of the debt, liability, or
2-42 expense paid by the conferring estate;
2-43 (2) if the benefit resulted from the use of the
2-44 conferring estate's property to make improvements on the benefited
2-45 estate's real property, then the value of the benefit conferred is
2-46 measured by the enhancement in the value of the benefited estate's
2-47 real property that resulted from the improvements; or
2-48 (3) if the benefit resulted from the use of time, toil,
2-49 talent, or effort to enhance the value of property of a spouse's
2-50 separate estate, then the value of the benefit conferred is
2-51 measured by the value of the time, toil, talent, or effort beyond
2-52 that which was reasonably necessary to manage and preserve the
2-53 spouse's separate property.
2-54 (e) The determination of whether unjust enrichment will
2-55 occur if one marital estate is not required to reimburse another
2-56 marital estate is a question for the court to decide.
2-57 (f) The court shall resolve a claim for reimbursement by
2-58 using equitable principles, including the principle that claims for
2-59 reimbursement may be offset against each other if the court
2-60 determines it to be appropriate.
2-61 (g) A claim for reimbursement of a marital estate by one
2-62 spouse may be offset by the value of any related benefit that the
2-63 other spouse proves that the conferring estate received from the
2-64 benefited estate, including:
2-65 (1) the value of the use and enjoyment of the property
2-66 by the conferring estate, except that the separate marital estate
2-67 of a spouse may not claim an offset for use and enjoyment of a
2-68 primary or secondary residence owned wholly or partly by the
2-69 separate marital estate against contributions made by the community

3-1 marital estate to the separate marital estate;
 3-2 (2) income received by the conferring estate from the
 3-3 property of the benefited estate; or
 3-4 (3) any reduction in the amount of any income tax
 3-5 obligation of the conferring estate by virtue of the conferring
 3-6 estate claiming tax-deductible items relating to the property of
 3-7 the benefited estate, such as depreciation, interest, taxes,
 3-8 maintenance, or other deductible payments.

3-9 ~~(h) [(c) Benefits for the use and enjoyment of property may~~
 3-10 ~~be offset against a claim for reimbursement for expenditures to~~
 3-11 ~~benefit a marital estate, except that the separate estate of a~~
 3-12 ~~spouse may not claim an offset for use and enjoyment of a primary or~~
 3-13 ~~secondary residence owned wholly or partly by the separate estate~~
 3-14 ~~against contributions made by the community estate to the separate~~
 3-15 ~~estate.~~

3-16 ~~[(d) Reimbursement for funds expended by a marital estate~~
 3-17 ~~for improvements to another marital estate shall be measured by the~~
 3-18 ~~enhancement in value to the benefited marital estate.~~

3-19 ~~[(e)]~~ The party seeking an offset to a claim for
 3-20 reimbursement has the burden of proof with respect to the offset.

3-21 SECTION 3. Section 3.404(b), Family Code, is amended to
 3-22 read as follows:

3-23 (b) A claim for reimbursement under this subchapter does not
 3-24 create an ownership interest in property, but does create a claim
 3-25 against the property of the benefited estate by the conferring
 3-26 ~~[contributing]~~ estate. The claim matures on dissolution of the
 3-27 marriage or the death of either spouse.

3-28 SECTION 4. Section 3.406, Family Code, is amended to read as
 3-29 follows:

3-30 Sec. 3.406. EQUITABLE LIEN. (a) On dissolution of a
 3-31 marriage, the court may impose an equitable lien on the property of
 3-32 a benefited ~~[marital]~~ estate to secure a claim for reimbursement
 3-33 against that property by a conferring ~~[contributing marital]~~
 3-34 estate.

3-35 (b) On the death of a spouse, a court may, on application for
 3-36 a claim for reimbursement brought by the surviving spouse, the
 3-37 personal representative of the estate of the deceased spouse, or
 3-38 any other person interested in the estate, as defined by Chapter 22,
 3-39 Estates Code, impose an equitable lien on the property of a
 3-40 benefited ~~[marital]~~ estate to secure a claim for reimbursement
 3-41 against that property by a conferring ~~[contributing marital]~~
 3-42 estate.

3-43 SECTION 5. Subchapter E, Chapter 3, Family Code, is amended
 3-44 by adding Section 3.411 to read as follows:

3-45 Sec. 3.411. CUMULATIVE REMEDIES. The remedies provided by
 3-46 this subchapter are not exclusive and are in addition to any other
 3-47 remedy provided by law.

3-48 SECTION 6. The change in law made by this Act applies to a
 3-49 claim for reimbursement that is pending in a trial court on the
 3-50 effective date of this Act or that is filed on or after that date.

3-51 SECTION 7. This Act takes effect September 1, 2023.

3-52 * * * * *