

By: Harris

S.B. No. 817

A BILL TO BE ENTITLED

AN ACT

relating to the division of community property on dissolution of marriage.

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

SECTION 1. Chapter 7, Family Code, is amended by adding Section 7.009 to read as follows:

Sec. 7.009. FRAUD ON THE COMMUNITY; DIVISION AND DISPOSITION OF RECONSTITUTED ESTATE. (a) In this section:

(1) "Fraud on the community" means improper conduct by a spouse to the detriment of the community estate. The term includes a spouse:

(A) wrongfully conveying property out of the community estate;

(B) wasting community funds or property; and

(C) failing to provide an accounting of money transferred from the community estate.

(2) "Reconstituted estate" means the total amount of money that would have been in the community estate if the fraud on the community had not occurred.

(b) Before dividing the community estate under Section 7.001, the trier of fact must determine whether a spouse has committed fraud on the community.

(c) If the trier of fact determines that a spouse has committed fraud on the community, the court shall:

1 (1) calculate the value by which the community estate
2 was depleted as a result of the fraud on the community and calculate
3 the amount of the reconstituted estate;

4 (2) divide the value of the reconstituted estate
5 between the parties; and

6 (3) award to the spouse that committed the fraud on the
7 community the portion of the estate that the spouse depleted.

8 (d) In making a just and right division of the reconstituted
9 estate under Section 7.001, the court may:

10 (1) award a money judgment in favor of the wronged
11 spouse against the spouse who committed the fraud on the community;

12 (2) award the wronged spouse an appropriate share of
13 the community estate remaining after the fraud on the community; or

14 (3) award the wronged spouse both a money judgment and
15 an appropriate share of the community estate as necessary to effect
16 a just and right division.

17 SECTION 2. The change in law made by this Act applies to a
18 suit for dissolution of a marriage pending before a trial court on
19 or filed on or after the effective date of this Act.

20 SECTION 3. This Act takes effect September 1, 2011.