

BILL ANALYSIS

Senate Research Center

H.B. 1245
By: Goodman (Harris)
Jurisprudence
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Engrossed

DIGEST AND PURPOSE

Currently, there are some concerns regarding the application of certain legislative actions that address interest equity. Of particular concern is the equity between the community estate of a married couple and the separate estates of the husband and wife and when one of these three marital estates makes an economic contribution to another marital estate. H.B. 1245 amends provisions regarding the economic contributions involved in the transactions that take place between marital estates and clarifies the differences regarding reimbursements and economic contributions.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. PUBLIC POLICY. Sets forth a legislative declaration.

SECTION 2. AMENDMENT. Amends Chapter 3E, Family Code, as follows:

SUBCHAPTER E. New heading: CLAIMS FOR ECONOMIC CONTRIBUTION AND REIMBURSEMENT

Deletes existing Sections 3.401 and 3.402 and inserts new Sections 3.401 - 3.403 as follows.

Sec. 3.401. DEFINITIONS. Defines “claim for economic contribution,” “economic contribution,” “equity,” “marital estate,” and “spouse.”

Sec. 3.402. ECONOMIC CONTRIBUTION. Defines “economic contribution.”

Sec. 3.403. CLAIM BASED ON ECONOMIC CONTRIBUTION. (a) Provides that a marital estate that makes an economic contribution to property owned by another marital estate has a claim for economic contribution with respect to the benefited estate.

(b) Provides that the amount of the claim under this section is equal to a calculated amount under certain conditions.

(c) Authorizes the amount of a claim under this section to be less than the total of the economic contributions made by the contributing estate, but prohibits it from causing the contributing estate to owe funds to the benefited estate.

(d) Prohibits the amount of a claim under this section from exceeding the equity in the property on the date of dissolution of the marriage, the death of a spouse, or disposition of the property.

(e) Provides that the use and enjoyment of property during a marriage for which a claim for economic contribution to the property exists does not create a claim of an offsetting benefit against the claim.

Redesignates existing text of Sections 3.403 and 3.404 as Sections 3.404 and 3.405.

Sec. 3.404. New heading: APPLICATION OF INCEPTION OF TITLE RULE; OWNERSHIP INTEREST NOT CREATED. (a) Provides that this subchapter does not affect the rule of inception of title under which the character of property is determined at the time the right to own or claim the property arises, rather than is acquired.

(b) Provides that the claim for economic contribution, rather than equitable interest, created under this subchapter does not create an ownership interest in property, but does create a claim against the property of the benefited estate by the contributing estate. Provides that the claim matures on dissolution of the marriage or the death of either spouse.

Sec. 3.405. New heading: MANAGEMENT RIGHTS. Provides that this subchapter does not affect the right to manage, control, or dispose of marital property as provided by this chapter.

Deletes existing text of Section 3.405.

Sec. 3.406. EQUITABLE LIEN. (a) Requires the court, on dissolution, rather than termination, of a marriage, to impose an equitable lien on property of a marital estate, rather than community or separate property, to secure a claim for economic contribution in that property by another marital estate, rather than arising by reason of an equitable interest as provided by this subchapter.

(b) Requires a court, on the death of a spouse, to impose, on application for a claim of economic contribution brought by a certain person, as defined by Section 3, Texas Probate Code, an equitable lien on the property of a benefited marital estate to secure a claim for economic contribution by a contributing marital estate.

(c) Authorizes an equitable lien under this section, subject to homestead restrictions, to be imposed on the entirety of a spouse's property in the marital estate and provides that it is not limited to the item of property that benefited from an economic contribution.

Sec. 3.407. OFFSETTING CLAIMS. Requires the court to offset a claim for one marital estate's economic contribution in a specific asset of a second marital estate against the second marital estate's claim for economic contribution in a specific asset of the first marital estate.

Sec. 3.408. CLAIM FOR REIMBURSEMENT. (a) Provides that a claim for economic contribution does not abrogate another claim for reimbursement in a factual circumstance not covered by this subchapter. Provides that in the case of a conflict between a claim for economic contribution under this subchapter and a claim for reimbursement, the claim for economic contribution, if proven, prevails.

(b) Provides that a claim for reimbursement includes payment by one marital estate of the unsecured liabilities of another marital estate and inadequate compensation for the time, toil, talent, and effort of a spouse by a business entity under the control and direction of that spouse.

(c) Requires the court to resolve a claim for reimbursement by using equitable principles, including the principle that claims for reimbursement may be offset against

each other if the court determines it to be appropriate.

(d) Authorizes benefits for the use and enjoyment of property to be offset against a claim for reimbursement for expenditures to benefit a marital estate on property that does not involve a claim for economic contribution to the property.

Sec. 3.409. NONREIMBURSABLE CLAIMS. Prohibits the court from recognizing a marital estate's claim for reimbursement for certain obligations.

Sec. 3.410. EFFECT OF MARITAL PROPERTY AGREEMENTS. Provides that a premarital or marital property agreement that satisfies the requirements of Chapter 4 is effective to waive, release, assign, or partition a claim for economic contribution under this subchapter to the same extent the agreement would have been effective to waive, release, assign, or partition a claim for reimbursement under the law as it existed immediately before September 1, 2001, unless the agreement provides otherwise.

SECTION 3. CONFORMING AMENDMENT. Amends Section 3.006, Family Code, to delete existing text of Subsection (b) regarding an equitable interest.

SECTION 4. CONFORMING AMENDMENT. Amends Section 7.002, Family Code, to make a conforming change.

SECTION 5. CONFORMING AMENDMENT. Amends Chapter 7, Family Code, by adding Section 7.007, as follows:

Sec. 7.007. DISPOSITION OF CLAIM FOR ECONOMIC CONTRIBUTION OR CLAIM FOR REIMBURSEMENT. (a) Requires the court, in a decree of divorce or annulment, to determine the rights of both spouses in a claim for economic contribution as provided by Chapter 3E, and in a manner that the court considers just and right, having due regard for the rights of each party and any children of the marriage, and to take certain enumerated actions.

(b) Requires the court, in a decree of divorce or annulment, to determine the rights of both spouses in a claim for reimbursement as provided by Chapter 3E, and to apply equitable principles to take certain enumerated actions.

SECTION 6. EFFECTIVE DATE; TRANSITION. (a) Effective date: September 1, 2001.

(b) Provides that the change in law made by this Act applies to a suit for dissolution of a marriage or annulment pending on the effective date of this Act or filed on or after that date.

(c) Provides that Section 3.410, Family Code, as added by this Act, applies to a premarital property agreement or marital property agreement executed before, on, or after the effective date of this Act.